FEDERAL REGISTER

VOLUME 13 NUMBER 123

Washington, Thursday, June 24, 1948

TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 9969

SUSPENSION OF EIGHT-HOUR LAW AS TO WORK ON THE ALASKA RAILROAD, DEPARTMENT OF THE INTERIOR

Correction

In Federal Register Document 48-5626, appearing on page 3333 of the issue for Tuesday, June 22, 1948, the phrase "administrative workwork" in the proviso should read "administrative workweek."

TITLE 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration, Department of Agriculture

PART 25—THE FEDERAL LAND BANK OF NEW ORLEANS

APPRAISAL FEES

Section 25.1 of Title 6, Code of Federal Regulations, is amended to read as follows:

§ 25.1 *Appraisal fees.* (a) A fee of $5 will be collected with each application for a new loan of $1000 or less, and a fee of $10 will be collected in such case where more than $1000 is applied for. Should the application be withdrawn or declined before an appraisal is made, the fee will be returned to the applicant.

(b) A fee of $5 will be collected with each application for an increased or refunding loan where the amount applied for is $1000 or less, and a fee of $10 will be collected in such case where more than $1000 is applied for: *Provided,* That only a fee of $5 will be collected with each of two or more applications filed to refinance an existing loan (land bank, Land Bank Commissioner, or joint land bank and Commissioner loans) covering any part of the property offered as security. Should the application be withdrawn or declined before an appraisal is made, the fee will be returned to the applicant.

(c) A fee of $5 will be collected with each application for division of an existing loan (land bank, Land Bank Commissioner, or joint land bank and Land Bank Commissioner loans). The fee will be returned if the application is withdrawn or declined before an appraisal is made.

(d) A supplemental fee equal to the fee collected with the application will be charged in any type of case for each reappraisal made because of delay on the part of an applicant or made at the applicant's request. If the reappraisal results in a more favorable commitment, the fee will be refunded. (Secs. 7, 13 Ninth, 39 Stat. 365, 372, as amended, secs. 26, 32, 33, 48 Stat. 48, 49, as amended; 12 U. S. C. 781 Ninth, 723 (e), 1016 (e) and Sup., 1017, 6 C. F. R. 19.322, 19.326, 19.330) (Res. Ex. Com. June 9, 1948.

THE FEDERAL LAND BANK OF NEW ORLEANS,
[SEAL] R. L. THOMPSON,
President.

[F. R. Doc. 48-5650; Filed, June 23, 1948; 8:49 a. m.]

TITLE 7—AGRICULTURE

Chapter I—Production and Marketing Administration (Standards, Inspections, and Marketing Practices)

Subchapter C—Regulations Under the Farm Products Inspection Act

PART 67—DETERMINATION AND CERTIFICATION OF CONDITION (SHRINKAGE OR CLEAN CONTENT) OF WOOL

Pursuant to the authority vested in the Secretary of Agriculture by the Agricultural Marketing Act of 1946 (Title II of the act of Congress approved August 14, 1946, 60 Stat. 1087-1091, 7 U. S. C. Supp. 1621 et seq.) and the provisions for market inspection of farm products constituting the so-called Farm Products Inspection Act, recurring in the annual appropriation acts for the United States Department of Agriculture, and currently contained in the Department of Agriculture Appropriation Act, 1948 approved July 30, 1947 (61 Stat. 523, 7 U. S. C. Supp. 414) and in accordance with the public notice issued by the Secretary of Agriculture on January 8, 1948 (13 F. R. 185) the following regulations governing the determination and certification of the condition (shrinkage or clean content) of wool are hereby promulgated.

(Continued on p. 3451)

CONTENTS

THE PRESIDENT

Executive Order — Page

Alaska Railroad, Department of the Interior; suspension of eight-hour law as to work (Corr.) — 3449

EXECUTIVE AGENCIES

Agriculture Department

See also Animal Industry Bureau; Farm Credit Administration.

Proposed rule making:
- Milk handling, Philadelphia, Pa., area — 3463

Rules and regulations:
- Food imports; revision of Appendix A — 3456
- Potatoes, Irish, in Southeastern States; exemptions, export shipments, and inspection and certification — 3454
- Wool; determination and certification of condition — 3449

Alien Property, Office of

Notices:

Vesting orders, etc.:
- Bosch, Robert, G. m. b. H. — 3479
- Gerling, Andreas — 3478
- Matsumoto, Tom — 3479
- Moeckel, Elfriede — 3479
- Pohler, Ernest — 3478
- Rauser, Lena — 3478
- Rosenbaum, Mendel, and Elsa Oppenheimer — 3480
- Steel Union Trading Co. and Stahlunion-Export G. m. b. H. — 3480

Animal Industry Bureau

Rules and regulations:
- Horses; book of record recognition — 3457

Atomic Energy Commission

Rules and regulations:
- Applications for determination of reasonable royalty fee, just compensation, or grant of award for patents, inventions or discoveries — 3457

Civil Aeronautics Administration

Rules and regulations:

CAA specifications:
- Air-carrier aircraft proving period — 3460

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Division of the Federal Register, the National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1947.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

CONTENTS—Continued

Civil Aeronautics Administration—Continued Page

Rules and regulations—Continued
CAA specifications—Continued
Air carrier operating skill... 3459
Route operation proving flights and aircraft proving tests ... 3460
Proving flights and tests for scheduled air carriers; revocation of part ... 3460

Civil Aeronautics Board

See also Civil Aeronautics Administration.
Proposed rule making:
Certificate, commercial operator ... 3473
Certification and operation rules, nonscheduled irregular air carrier ... 3464

Customs Bureau

Proposed rule making:
Hawaii; examination of persons traveling by air to mainland ... 3463
Rules and regulations:
Air commerce; documents ... 3461
Customs relations with contiguous foreign territory; merchandise in transit through U. S ... 3461

Defense, Secretary of

Rules and regulations:
Functions pertaining to appointment, promotion, reduction, demotion, retirement, resignation, revocation of commission, discharge, dismissal and separation of Air Force military personnel ... 3461

Farm Credit Administration

Rules and regulations:
Federal Land Bank of New Orleans; appraisal fees ... 3449

Federal Power Commission

Notices:
Kentucky West Virginia Gas Co., order allowing rate schedules and supplements to take effect and terminating proceeding ... 3475

Immigration and Naturalization Service

Proposed rule making:
Hawaii; examination of persons traveling by air to mainland ... 3463
Rules and regulations:
Civil air navigation; documents ... 3456

Indian Affairs, Office of

Rules and regulations:
Delegation of authority functions relating to supply contracts ... 3461

Land Management, Bureau of

Notices:
Alaska; notices for filing objections (2 documents) ... 3475
Rules and regulations:
Alaska; withdrawal of public lands in aid of proposed legislation, etc. (2 documents) ... 3462

Public Health Service

Proposed rule making:
Hawaii; examination of persons traveling by air to mainland ... 3474
Rules and regulations:
Foreign quarantine; documents (2 documents) ... 3462

Securities and Exchange Commission

Notices:
Hearings, etc.:
Appalachian Electric Power Co ... 3475

CONTENTS—Continued

Securities and Exchange Commission—Continued Page

Notices—Continued
Hearings, etc.—Continued
Columbia Gas System, Inc., and Ohio Fuel Gas Co ... 3476
Lehigh Valley Transit Co. and Allentown Bridge Co ... 3477
Northern States Power Co ... 3475
United Light and Railways Co. and Continental Gas & Electric Corp ... 3477

State Department

Notices:
Property of former German Government; relinquishment of control ... 3474

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

Title 3—The President Page

Chapter II—Executive orders:
7888 (see PLO 487) ... 3462
8979 (see PLO 487) ... 3462
9969 ... 3449

Title 6—Agricultural Credit

Chapter I—Farm Credit Administration, Department of Agriculture:
Part 25—Federal Land Bank of New Orleans ... 3449

Title 7—Agriculture

Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices)
Part 67—Determination and certificaton of condition (shrinkage or clean content) of wool ... 3449
Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)
Part 961—Milk in Philadelphia, Pa., marketing area (proposed) ... 3463
Part 981—Irish potatoes grown in Southeastern States ... 3454
Chapter XI—Production and Marketing Administration (War Food Distribution Orders)
Part 1596—Food imports ... 3456

Title 8—Aliens and Nationality

Chapter I—Immigration and Naturalization Service, Department of Justice:
Part 116—Civil air navigation ... 3456
Proposed rule making ... 3463

Title 9—Animals and Animal Products

Chapter I—Bureau of Animal Industry, Department of Agriculture:
Part 151—Recognition of breeds and purebred animals ... 3457

CODIFICATION GUIDE—Con.

Title 11—Atomic Energy — Page

Chapter I—Atomic Energy Commission:

Part 80—General rules of procedure on applications for the determination of reasonable royalty fee, just compensation, or the grant of an award for patents, inventions or discoveries — 3457

Title 14—Civil Aviation

Chapter I—Civil Aeronautics Board:

Part 40—Air carrier operating certification — 3459

Part 41—Certification and operation rules for scheduled air carrier operations outside continental limits of the United States — 3460

Part 42—Nonscheduled [irregular] air carrier certification and operation rules (proposed) — 3464

Part 45—Commercial operator certificate (proposed) — 3473

Part 61—Scheduled air carrier rules — 3460

Chapter II—Civil Aeronautics Administration, Department of Commerce:

Part 910—Proving flights and tests for scheduled air carriers — 3460

Title 19—Customs Duties

Chapter I—Bureau of Customs, Department of the Treasury:

Part 5—Customs relations with contiguous foreign territory — 3461

Part 6—Air commerce regulations — 3461

Proposed rule making — 3463

Title 25—Indians

Chapter I—Office of Indian Affairs, Department of the Interior:

Part 02—Delegations of authority — 3461

Title 32—National Defense

Chapter I—Secretary of Defense — 3461

Title 42—Public Health

Chapter I—Public Health Service, Federal Security Agency:

Part 71—Foreign quarantine (2 documents) — 3462

Proposed rule making — 3474

Title 43—Public Lands: Interior

Chapter I—Bureau of Land Management, Department of the Interior:

Appendix—Public land orders:

390 (see PLO 487) — 3462

486 — 3462

487 — 3462

DEFINITIONS

Sec.

67.1 Meaning of words.

67.2 Terms defined.

ADMINISTRATION

67.3 Authority.

WHERE SERVICES MAY BE OFFERED

67.4 Designated markets and other locations.

67.5 Request for establishment of service.

67.6 Denial or withdrawal of service for administrative reasons.

SHRINKAGE OR CLEAN CONTENT; DETERMINATION SERVICES

67.7 Kind of service.

67.8 Who may obtain service.

67.9 How to obtain service.

67.10 Form of application for service.

67.11 When application for service deemed filed.

67.12 Denial or withdrawal of service for cause.

67.13 Cause for denial of service.

67.14 When application for service may be withdrawn.

67.15 Authority of agent.

67.16 Accessibility of wool.

67.17 Order of service.

67.18 Financial interest of samplers and other employees.

67.19 Certificates; issuance.

67.20 Certificates; form.

67.21 Disposition of certificates.

67.22 Advance information.

67.23 Identification of wool certified.

APPEAL SHRINKAGE OR CLEAN CONTENT; DETERMINATION

67.24 When an appeal may be made.

67.25 How to obtain appeal determination.

67.26 When an appeal may be refused.

67.27 When an appeal may be withdrawn.

67.28 Order in which appeal determinations shall be made.

67.29 Appeal determination procedure.

67.30 Appeal determination certificates.

67.31 Superseded certificates.

67.32 When request for redetermination of shrinkage or clean content is not an appeal.

CHARGES FOR SERVICE

67.33 Fees.

67.34 How fees shall be paid.

67.35 Disposition of fees.

MISCELLANEOUS

67.36 Misconduct by Official Samplers or other employees.

67.37 Identification of employees.

67.38 Duty of employees to report errors in shrinkage or clean content determinations.

67.39 Political activity.

AUTHORITY: §§ 67.1 to 67.39, inclusive, issued under Title II, act of August 14, 1946, 60 Stat. 1087–1091 and act of July 30, 1947, 61 Stat. 523; 7 U. S. C. Supp. 1621 et seq. and 414.

DEFINITIONS

§ 67.1 *Meaning of words.* Words used in the regulations in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 67.2 *Terms defined.* For the purpose of the regulations in this part, unless the context otherwise requires, the following terms shall be construed respectively to mean:

(a) *The acts.* The Agricultural Marketing Act of 1946 (Title II of the act of Congress approved August 14, 1946, 60 Stat. 1087–1091, 7 U. S. C. Supp. 1621 et seq.) and the following provision of the Department of Agriculture Appropriation Act, 1948 (61 Stat. 523, 7 U. S. C. Supp. 414) or a similar provision of any future act of Congress conferring like authority:

For the investigations and certification, in one or more jurisdictions, to shippers and other interested parties of the class, quality, and condition of any agricultural commodity or food product, whether raw, dried, canned, or otherwise processed, and any product containing an agricultural commodity, or derivative thereof when offered for interstate shipment or when received at such important central markets as the Secretary may from time to time designate, or at points which may be conveniently reached therefrom under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered. * * *

(b) *Department.* The United States Department of Agriculture.

(c) *Secretary.* The Secretary of Agriculture, or any officer or employee of the Department to whom authority has heretofore lawfully been delegated, or to whom authority hereafter may lawfully be delegated, to act in his stead.

(d) *Administration.* The Production and Marketing Administration of the Department.

(e) *Administrator.* The Administrator of the Administration, or any officer or employee of the Administration to whom authority has heretofore lawfully been delegated, or to whom authority hereafter may lawfully be delegated, to act in his stead.

(f) *Wool Division.* The Wool Division of the Livestock Branch, of the Administration.

(g) *Supervisor of Sampling.* An official sampler or other qualified person designated by the Administrator to supervise sampling operations, specify methods of sampling to be used on various types of wools, maintain the necessary accuracy of operations carried on by Official Samplers within his jurisdiction, and act as a representative of the Department in its dealings with wool growers and handlers with respect to core sampling of wool.

(h) *Official Sampler.* An employee of the Department authorized by the Administrator to take core samples of wool under the regulations in this part, in accordance with prescribed methods.

(i) *Person.* Any individual, association, partnership, other group of individuals, or corporation. This term includes, but is not limited to, Federal, State, county, and municipal governments, and common carriers.

(j) *Financially interested party.* Any person having a financial interest in the products involved, including, but not limited to, the shipper, receiver, or carrier, or any authorized person on behalf of such party.

(k) *Applicant.* A financially interested party who requests shrinkage or clean content determination service under the regulations in this part.

(l) *Regulations.* Rules and regulations of the Secretary in this part.

(m) *Wool.* Domestic wool shorn from sheep or lambs or pulled from the pelts of sheep or lambs raised in the continental United States.

(1) *Shorn wool.* Wool removed from live sheep or lambs by means of hand or power shears.

(2) *Pulled wool.* Wool removed from the pelts of slaughtered sheep or lambs by means of lime, sweating, or a depilatory process.

(n) *Service.* The core sampling and laboratory testing and certification serv-

ice authorized by the acts and established and conducted under the regulations in this part for the purpose of determining and certifying the shrinkage or the clean content of wool.

(o) *Core sampling.* A method of coring a bale or bag of wool to obtain a representative sample of the wool.

(p) *Shrinkage.* The loss in weight which occurs when foreign matter and impurities are removed from raw or greasy wool by cleaning.

(q) *Clean content.* All that portion of the wool which consists exclusively of wool free of all vegetable and other foreign material, containing 12 percent by weight of moisture and 1½ percent by weight of material removable from the wool by extraction with alcohol, and having an ash content not exceeding one-half of 1 percent by weight.

(r) *Shrinkage or clean content certificate.* A certificate issued by the Department under the regulations in this part showing lot numbers, total number of bags or bales in each lot, a description of the wool, place and date of sampling, the shrinkage or clean content of the sample, and other data.

(s) *Appeal determination.* A redetermination of the shrinkage or clean content of wool with respect to which an allegedly incorrect shrinkage or clean content certificate was previously issued.

(t) *Designated market.* Any shipping, receiving, handling, or distributing point designated by the Administrator as an important central market where wool is prepared, shipped, or distributed in interstate commerce in considerable quantities and where service may be offered.

ADMINISTRATION

§ 67.3 *Authority.* The Administrator is charged with the administration of the provisions of the regulations in this part and of the acts insofar as they relate to the subject matter of the regulations in this part.

WHERE SERVICE MAY BE OFFERED

§ 67.4 *Designated markets and other locations.* Service in accordance with the regulations in this part may be offered at the discretion of the Administrator at designated markets and at other locations with activities similar to those of a designated market and readily accessible therefrom.

§ 67.5 *Request for establishment of service.* Requests for the establishment of service at designated markets or at other locations may be filed with the Administrator.

§ 67.6 *Denial or withdrawal of service for administrative reasons.* The Administrator may deny service to, or withdraw it from, any designated market or other location or applicant when he deems such action to be in the interest of the service. Published notice shall be given of the denial of service to or the withdrawal of service from any designated market or other location, and notice shall be given to the applicant of the denial or withdrawal of service to or from such applicant hereunder.

SHRINKAGE OR CLEAN CONTENT DETERMINATION SERVICE

§ 67.7 *Kind of service.* Determination of the shrinkage or clean content of wool shall be made by means of taking core samples from the original lots of raw or greasy wool for which a determination is requested and by a laboratory process determining the shrinkage or the clean content of such wool. After samples have been taken they shall be sent, by the Official Sampler, in a moisture proof bag or drum to a laboratory of the Wool Division, where the laboratory testing to determine the shrinkage or the clean content of the wool will be conducted. A report of the results of the laboratory testing will be sent to the Chief of the Wool Division for issuance of a shrinkage or clean content certificate as provided in § 67.19.

§ 67.8 *Who may obtain service.* Requests for service may be made by any financially interested party or his authorized agent.

§ 67.9 *How to obtain service.* An application for service may be filed in the office of the Supervisor of Sampling at a designated market or in the office of the Chief of the Wool Division. It may be made orally (including by telephone) in writing, by telegraph, or by other means of communication. If made orally (including by telephone) the request must be confirmed in writing or by telegraph stating the facts required by § 67.10.

§ 67.10 *Form of application for service.* Each formal application for service shall include such of the following information as may be required by the official with whom the application is filed, for the proper location and identification of the wool: (a) The date of application; (b) the description and location of the wool to be tested; (c) the name and post office address of the applicant and of the person, if other than the applicant, making the application in his behalf; and (d) the interest of the applicant in the wool (except in the case of an official of a governmental agency)

§ 67.11 *When the application for service deemed filed.* An application for service shall be deemed filed when delivered to the established office of a Supervisor of Sampling at any designated market or to the office of the Chief of the Wool Division. Records showing the date and time of filing shall be made and kept in the office in which the application is filed.

§ 67.12 *Denial or withdrawal of service for cause.* (a) Any application for service may be rejected or service may be suspended, by the official with whom the application for service is filed, for noncompliance by the applicant with the regulations prescribing the conditions, such as accessibility of the wool, on which the service is made available, or for any of the causes set forth in § 67.13. Such official shall immediately notify the applicant of such rejection or suspension and the reasons therefor, and through his immediate supervisor shall report his actions with the reasons therefor, to the Administrator for informal settlement of the controversy. If such procedure fails to dispose of the matter, the Administrator without further hearing may deny the benefits of the acts to the applicant for noncompliance with the regulations prescribing the conditions on which the service is made available; and, after according the applicant an opportunity for a hearing before a proper officer, may deny the benefits of the acts to the applicant for any of the causes enumerated in § 67.13: *Provided, however,* That pending final disposal of the matter, service may be withheld from the applicant by the Administrator, without hearing.

(b) All final orders in any proceeding to deny the benefits of the acts to any person (except orders required for good cause to be held confidential and not cited as precedents) shall be filed with the Hearing Clerk of the Department and be available to public inspection.

§ 67.13 *Cause for denial of service.* Any wilful misrepresentation or any deceptive or fraudulent practice made or committed by any person in connection with the execution or filing of an application or the use of a certificate, tag, or other marking provided under the regulations in this part; any fraudulent or unauthorized alteration, or imitation of any such certificate, tag, or marking; any interference with or obstruction of any employee of the Department in the performance of his duties under the regulations in this part, by intimidation, threats, assaults, or any other improper means; and any wilful violation of the regulations in this part may be deemed sufficient cause for debarring the person found guilty thereof from any further benefits of the acts.

§ 67.14 *When application for service may be withdrawn.* A request for service may be withdrawn by the applicant at any time before the service is performed, upon payment of any expenses already incurred by the Department in connection therewith.

§ 67.15 *Authority of agent.* Proof of the authority of any person applying for the service on behalf of another may be required at the discretion of the official with whom the application is filed.

§ 67.16 *Accessibility of wool.* The applicant shall cause the wool, on which service is requested, to be made easily accessible for sampling and to be so placed as to have adequate illuminating facilities.

§ 67.17 *Order of service.* Service shall be rendered in the order in which requests are received, except that precedence may be given first, to requests for appeal determinations, and second, to requests made by a branch of the Federal government, a State, a county, or a municipality. An exception to the order of rendering service may be made when it is in the interest of the Department in utilizing its employees efficiently.

§ 67.18 *Financial interest of samplers and other employees.* No official sampler, supervisor of sampling, or other employee of the Department shall render service on any wool in which he is directly or indirectly financially interested.

§ 67.19 *Certificates; issuance.* The Chief of the Wool Division, or any employee of the Department designated by him, shall prepare, sign and issue official certificates covering wool for which a shrinkage or clean content determination is made.

§ 67.20 *Certificates; form.* Each certificate issued under the regulations in this part shall include the following information: (a) Number of certificate; (b) date issued; (c) name and address of the applicant; (d) applicant's lot number; (e) place and date of sampling; (f) sampler's number; (g) number of bags or bales in lot; (h) applicant's description of lot and weight; and (i) the shrinkage of the sample expressed in percentage or the clean content of wool expressed in pounds, as of the time of sampling.

§ 67.21 *Disposition of certificates.* The original certificate and not to exceed two copies thereof shall be delivered or mailed immediately to the applicant or a person designated by him. One copy shall be forwarded to the office of the Supervisor of Sampling and one copy filed in the office of the Chief of the Wool Division. Copies of certificates shall be kept on file until other disposition is ordered by the Administrator. Additional copies will be furnished to the applicant or other financially interested parties upon application and payment of fees as provided in § 67.33.

§ 67.22 *Advance information.* Upon request of an applicant and at his expense, all or any part of the contents of the certificate may be transmitted by telegraph or by telephone to him or to any person designated by him.

§ 67.23 *Identification of wool certified.* Each bag or bale of wool for which a shrinkage or clean content determination has been requested shall be marked with an appropriate number which shall subsequently be inserted as the sampler's number on the certificate issued with respect to such wool.

APPEAL SHRINKAGE OR CLEAN CONTENT DETERMINATION

§ 67.24 *When an appeal may be made.* A request for an appeal determination may be made by any financially interested party whenever he believes that the shrinkage or clean content determination stated in the applicable certificate is incorrect due to error in the core sampling, the laboratory testing, the reporting of the shrinkage or clean content determination, or the recording thereof on the applicable certificate.

§ 67.25 *How to obtain appeal determination.* Appeal determination may be obtained by filing a request for such service with the Administrator or the supervisor of sampling under whose supervision the original determination was made. The request for appeal determination shall state the reasons therefor and may be accompanied by a copy of any previous determination certificate or report or any other information which the applicant may have received regarding the wool at the time of the original determination. Such request may be made orally (including by telephone), in writing, by telegraph, or otherwise. If made orally, the official receiving the request may require that it be confirmed in writing supplying the data required by § 67.10. Requests for appeal determinations received by a supervisor of sampling shall be transmitted promptly through his immediate superior to the Administrator, for instructions.

§ 67.26 *When an appeal may be refused.* If it shall appear that the reasons stated in a request for an appeal determination are frivolous or unsubstantial, or that the quality or condition of the wool has undergone a material change since the original shrinkage or clean content determination, or that the identity of the wool has been lost, or that the wool cannot be made accessible for thorough sampling and testing, or that the regulations prescribing the conditions on which the service is made available have otherwise not been complied with, a request for appeal determination may be denied by the Administrator. A request for appeal determination may also be denied after opportunity for hearing before a proper officer has been accorded the applicant for any of the causes enumerated in § 67.13 and pending investigation and hearing, the applicant may be denied the benefits of the acts by the Administrator, without hearing. The provisions of § 67.12 (b) shall also apply to final orders granting or denying appeal grading service.

§ 67.27 *When an appeal may be withdrawn.* A request for appeal determination may be withdrawn by the applicant at any time before the requested appeal determination has been performed, upon payment of any expenses incurred by the Administration in connection therewith.

§ 67.28 *Order in which appeal determinations shall be made.* Appeal determinations shall be performed as far as practicable in the order in which requests are received. They shall take precedence over other pending requests for determinations as provided in § 67.17.

§ 67.29 *Appeal procedure.* Where it is alleged by the applicant for appeal determination that the core sampling of the wool involved was improperly done, or where the original shrinkage or clean content determination is generally alleged to be incorrect, new core samples of the wool shall be taken by Official Samplers who shall be designated by the Administrator and who shall not be the samplers who took the original samples. New core samples may be so taken in other cases if the official with whom the appeal request was filed deems such action advisable. Laboratory testing on appeal of either the original or new samples or both, in the discretion of the Administrator, and preparation of new reports of shrinkage based thereon shall be conducted when error is alleged in the original testing, or reporting, or when the original shrinkage or clean content determination is generally alleged to be incorrect, or in other cases when ordered by the Administrator, and such tests and reports shall be made by employees who shall be designated by the Administrator and who shall not be the employees who performed such activities in the original determination. Where practicable, two employees shall be designated jointly to sample or test or prepare reports on the wool on appeal as the case may be. Where the applicant on appeal alleges error in the recordation on the original certificate of the shrinkage or clean content shown on the original report, or where the original shrinkage or clean content determination is generally alleged to be incorrect, the Administrator shall determine, in person, or by a delegatee other than the official who issued the original certificate, whether such error was made. Such determinations may be made also in other cases in the discretion of the Administrator.

§ 67.30 *Appeal determination certificates.* Immediately after an appeal determination has been made, a certificate marked as "appeal shrinkage (or clean content) determination" shall be prepared, signed, and issued referring specifically to the original certificate and showing the percentage of shrinkage or pounds of clean content as shown on the appeal. In all other respects, the provisions of § 67.7 through § 67.23 shall apply to such appeal determination except that, if the applicant for appeal is not the original applicant, a copy of the appeal determination certificate shall be mailed to the original applicant.

§ 67.31 *Superseded certificates.* When an original shrinkage or clean content determination certificate shall have been superseded by an appeal determination certificate, the original certificate shall become null and void and shall not thereafter represent the shrinkage or clean content determination of the wool described therein. If the original and all copies of the superseded certificate are not delivered to the person with whom the application for appeal is filed, the officer issuing the appeal determination certificate shall forward notice of such issuance and of the cancellation of the original certificate to such persons as he considers necessary to prevent fraudulent use of the cancelled certificate.

§ 67.32 *When request for redetermination of shrinkage or clean content is not an appeal.* Shrinkage or clean content redeterminations requested to determine the shrinkage or clean content of wool on which a previous determination has been made and which may have undergone material change since the original determination was made, and shrinkage or clean content redeterminations requested for the purpose of obtaining an up-to-date certificate, and not involving in either case any question as to the correctness of the original certificate covering the wool involved shall not be considered appeal determinations within the meaning of § 67.24 through § 67.31.

CHARGES FOR SERVICE

§ 67.33 *Fees.* A charge shall be made and collected in the form of fees for service rendered, at rates established herein to cover as nearly as may be the cost of maintaining the service.

(a) *Fees for shrinkage or clean content determination.* The following fees

shall be charged for shrinkage or clean content determinations, depending on the size of the lot of wool being tested:

Lots of:	Charge per lot
1–50 bags (or bales)	$35.00
51–150 bags (or bales)	45.00
151–200 bags (or bales)	50.00
201–300 bags (or bales)	55.00
301 bags and over (or bales)	60.00

These charges do not include the expense incident to making the wool available for core sampling or replacing the wool in the warehouse after the core sample has been obtained, which expense must be borne by the applicant. In arriving at these costs, allowance has been made for some monetary return to the administration through sale or other disposition of the samples after they have been tested and, therefore, no residual wool from core samples will be returned to the owner after testing.

(b) *Fees for appeal determination.* The charges for appeal determination shall be those set out in paragraph (a) of this section if the determination on appeal conforms with the original determination, within the range of tolerance established by the Administrator. If the original determination is found upon appeal to be in error no charge will be made for the appeal determination.

(c) *Fees for extra copies of shrinkage or clean content certificates.* Upon payment of a fee of $1.00 any financially interested party may obtain not to exceed three copies of a shrinkage or clean content certificate in addition to the copies issued in accordance with § 67.21.

§ 67.34 *How fees shall be paid.* Fees shall be paid by the applicant in accordance with directions on the fee bill furnished him, and in advance if required by the official sampler.

§ 67.35 *Disposition of fees.* Fees due for service rendered shall be remitted by the applicant to the Administration by check, draft, or money order made payable to the Treasurer of the United States.

MISCELLANEOUS

§ 67.36 *Misconduct by Official Samplers or other employees.* Any official sampler or other employee of the Department performing any duties under the acts or the regulations in this part who shall be a party to any fraud, deception, wilfull improper sampling or testing, disclosure of test results or related information to unauthorized persons, or other misconduct in the course of shrinkage or clean content determination under the regulations in this part, or who shall conceal knowledge thereof, shall at the discretion of the Secretary be dismissed from the Department, with prejudice or otherwise disciplined according to the gravity of his offense.

§ 67.37 *Identification of employees.* All supervisors of sampling and official samplers shall have in their possession at all times Administration identification cards, and shall identify themselves by such cards upon request.

§ 67.38 *Duty of employees to report errors in shrinkage or clean content determination.* When an official sampler, supervisor of sampling, or other responsible employee of the Administration has evidence of error in any shrinkage or clean content determination, or of incorrect identification of a lot of wool, or of incorrect certification of a lot of wool, he shall report such evidence to the Administrator through his immediate superior officer and to the party having possession of the product. The Administrator shall take such action as he may deem necessary to correct the error.

§ 67.39 *Political activity.* All Official Samplers, Supervisors of Sampling, and other employees of the Department performing duties under the regulations in this part are forbidden during the period of such employment to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular in behalf of, or opposition to, any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including temporary employees and employees on leave of absence, with or without pay. Wilful violations of this section will constitute grounds for dismissal.

Effective date. The foregoing regulations shall become effective upon their publication in the FEDERAL REGISTER.

The foregoing regulations provide a service which will be beneficial to persons engaged in the production of wool and to the public generally, and the use of the service is not mandatory under the regulations in any respect. The 1948 sheep-shearing season is at hand and if the foregoing regulations are to be of maximum benefit they must be made effective as soon as possible. Therefore, good cause is found under section 4 of the Administrative Procedure Act for the issuance of the regulations effective less than 30 days after their publication.

Done at Washington, D. C., this 21st day of June 1948.

Witness my hand and seal of the United States Department of Agriculture.

[SEAL] CHARLES F BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 48–5648; Filed, June 23, 1948; 8:49 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)

PART 981—IRISH POTATOES GROWN IN SOUTHEASTERN STATES

EXEMPTIONS; EXPORT SHIPMENTS; INSPECTION AND CERTIFICATION

The Southeastern Potato Committee established under the marketing agreement and order No. 81 (13 F R. 2709), regulating the handling of Irish potatoes grown in the Southeastern States production area, is the agency authorized to administer the terms and provisions of said marketing agreement and order. Among the provisions of said marketing agreement and order, are § 981.5 (a) which provides that said committee shall require, with the approval of the Secretary, inspection of potato shipments during any period of regulation; § 981.5 (f) which authorizes said committee to adopt, subject to the approval of the Secretary, procedures pursuant to which certificates of exemption will be issued to producers; and § 981.6 (c) which authorizes said committee to prescribe adequate safeguards to prevent potatoes shipped in export from entering the current of interstate commerce or directly burdening, obstructing, or affecting such commerce contrary to the provisions of, or regulations issued pursuant to, said marketing agreement and order. The Southeastern Potato Committee, at duly held open meetings, adopted the following rules and regulations pursuant to the Southeastern States potato marketing agreement and order and has recommended that they be approved:

§ 981.101 *Exemptions*—(a) *Exemption certificates.* (1) Any application for an exemption certificate authorizing the shipment of Irish potatoes shall be submitted to the Southeastern Potato Committee, or specifically authorized representative of said committee, and shall contain the following information on a form duly approved by and procurable from said committee:

(i) The name and address of the applicant and the location of the farm or farms on which the potatoes to be covered by the exemption certificate were produced;

(ii) The location of the producer's usual place of business (by district, township, or magisterial district and the direction and distance from nearest town) and the loading point from which the potatoes are to be shipped under the applied for exemption certificate;

(iii) The grade, size, and quality regulation from which exemption is requested;

(iv) The producer's estimated crop of potatoes in such terms as required by the application form for an exemption certificate;

(v) The amount of potatoes by grades, sizes, and quality, which the applicant has available for shipment during the remainder of the regulation period, and for which exemption is requested;

(vi) The amount of potatoes, by grades, sizes, and quality, which the applicant has sold or otherwise disposed of since the beginning of the particular regulation period;

(vii) The reasons why the quantity of potatoes for which exemption is requested does not meet the requirements of grade, size, or quality of potatoes permitted to be shipped under the particular regulation;

(viii) The name of the shipper

(ix) The applicant's shipments or sales of potatoes during the preceding season;

(x) Name of shipper or shippers handling potatoes for applicant during current season; and

(xi) Such additional data and information as the Southeastern Potato Committee may require in order to determine

whether the applicant is entitled to an exemption certificate.

(2) The Southeastern Potato Committee, or its specifically authorized representative, shall promptly verify all statements contained in each application for an exemption certificate and the Southeastern Potato Committee or, pursuant to paragraph (b) of this section, a specifically authorized subcommittee thereof, shall determine whether an application shall be approved or disapproved in accordance with the requirements of § 981.5 (f) The determination, in case of approval, shall be evidenced by the issuance, to the applicant, of an exemption certificate, and, in case of disapproval, shall be evidenced by written notice of such disapproval.

(3) Each exemption certificate issued pursuant hereto shall be on a form duly approved by said Committee. The exemption certificate shall be signed by the Secretary of the Southeastern Potato Committee, or the committee's specifically authorized employee. Each exemption certificate shall be issued in triplicate; the original and one copy shall be delivered to the producer, and one copy shall be retained as part of the committee's permanent records. The original exemption certificate and the copy thereof issued to a producer pursuant hereto shall be transferable to the shipper of such potatoes.

(4) Each shipper handling potatoes covered by an exemption certificate shall keep an accurate record, in the manner provided on such certificate, of all shipments of such potatoes. Such shipper, after having shipped the quantity of potatoes authorized by an exemption certificate for the applicant named therein, shall promptly surrender, to the Southeastern Potato Committee, or its duly authorized representative, the original exemption certificate which shall set forth an accurate record of all shipments thereunder.

(5) If any producer is dissatisfied with the determination of the Southeastern Potato Committee regarding any application for an exemption certificate or any duly issued exemption certificate, an appeal by such producer may be taken to the Southeastern Potato Committee pursuant to § 981.5 (f) (3).

(b) The Chairman of the Southeastern Potato Committee is authorized to appoint subcommittees of the aforesaid committee to consider applications for exemption and to determine whether such applications should be approved or disapproved in accordance with the requirements of § 981.5 (f) Such subcommittees shall act promptly upon receipt of an application for exemption. Each such subcommittee shall also promptly report its decision to the Chairman and Secretary of the Southeastern Potato Committee, or to the specifically authorized employee of said committee.

(c) The Chairman or the Secretary of the Southeastern Potato Committee, each or both, are hereby authorized to delegate in writing their authority to the manager or to any other specified employee of said committee with respect to issuance of exemption certificates, except that such authority shall not include the right to act as a member of any subcommittee passing upon the merits of any application, but such authority shall include the right, among others, to receive any or all such applications, and to sign exemption certificates, as directed by any of the aforementioned subcommittees, and such other matters not inconsistent herewith, in connection with handling such applications or issuing such certificates as the Chairman or the Secretary shall authorize.

§ 981.102 *Export shipments*—(a) *Safeguards for export shipments.* (1) All potatoes shipped for export below the U. S. grade or grades then currently permitted to be shipped by regulations issued pursuant to § 981.5, must be covered by a certificate or certificates of privilege. Each handler who first ships potatoes for export as aforesaid shall, as a prerequisite to such shipments, apply to the Southeastern Potato Committee for a certificate or certificates of privilege to ship such potatoes for export and each such application shall show:

(i) The name and address of the shipper;

(ii) The destination of such shipments;

(iii) The type of carrier to be used;

(iv) The amount of potatoes covered by such application; and

(v) That, in appropriate cases, the proposed export shipment is approved under other applicable U. S. Government programs.

(2) Each such handler who first ships potatoes pursuant to the provisions hereof shall:

(i) Procure Federal-State Inspection of such potatoes in accordance with § 981.5 (e)

(ii) Pay the rate of assessment on such shipments, as recommended by the committee and approved by the Secretary, to the Southeastern Potato Committee in accordance with § 981.4; and,

(iii) Authorize the Southeastern Potato Committee or its duly authorized representative to inspect final bills of sale with respect to such shipments for the purpose of determining if such shipments were in fact shipped in export.

(3) (i) The Southeastern Potato Committee shall give, or cause its duly authorized representatives to give, immediate consideration to each application received pursuant to subparagraph (1) of this paragraph. Pursuant to such consideration each application shall be approved on the basis of compliance with subparagraphs (1) and (2) of this paragraph, and upon the committee being satisfied that the proposed shipment is in fact destined for export.

(ii) Each handler whose application, submitted to the Southeastern Potato Committee and acted upon pursuant hereto, has been disapproved shall be notified in writing of such action by the committee.

(b) *Certificate of Privilege.* (1) Upon each application being approved pursuant to paragraph (a) (3) of this section, the Southeastern Potato Committee shall issue, or cause to be issued, a Certificate or Certificates of Privilege.

(2) Each such certificate shall authorize the shipment of potatoes to export pursuant to the safeguards provided in paragraph (a) of this section, and, in addition, such certificate shall direct the handler who ships such potatoes to report weekly the volume of potatoes shipped thereunder and such other information as the Secretary of the Committee may request.

(3) Each such certificate shall be issued in duplicate, the original of which shall be sent to the aforesaid handler and one copy thereof shall be retained in the files of the Southeastern Potato Committee.

§ 981.103 *Inspection and certification.* Each first handler of potatoes grown in the Southeastern States production area is hereby required, pursuant to § 981.5 (e) prior to making each shipment of potatoes, to cause each such shipment to be inspected by an authorized representative of the Federal-State Inspection Service, and such requirement shall be effective whenever regulations are in effect.

Each of the foregoing rules and regulations set forth in §§ 981.101, 981.102, and 981.103, under the aforesaid marketing agreement and order, is hereby approved.

It is hereby found and determined that compliance with the preliminary notice, public rule making procedure, and the 30 day effective date requirements of the Administrative Procedure Act (5 U. S. C. 1001 et seq.) is impracticable, unnecessary, and contrary to the public interest in that:

(1) Harvesting and marketing of potatoes grown in the Southeastern States production area have already begun for the current season and shipments are moving from major producing sections within said production area;

(2) Regulations, pursuant to recommendation by the Southeastern Potato Committee and approval by the Secretary, became effective June 4, 1948. Issuance of regulations and the movement of potatoes from the production area establish conditions necessitating the approval of the foregoing rules and regulations in the interest of equity among producers and handlers and in order to provide appropriate authority and proper guidance for the Southeastern Potato Committee;

(3) Compliance with this order will not require any special preparation on the part of handlers; and

(4) It is essential that the aforesaid rules and regulations and procedures become effective as soon as possible if the committee is to perform effectively its duties and functions under said marketing agreement and order.

(5) As used herein the terms "handler" "ship" "export" and "grades" shall have the same meaning as when used in the marketing agreement and Order No. 81.

(48 Stat. 31, 670, 675; 49 Stat. 750; 50 Stat. 246; 61 Stat. 202, 707; 7 U. S. C. 601 et seq., 13 F. R. 2703, 2965, 3112)

Issued at Washington, D. C., this 21st day of June 1948, to become effective upon the publication hereof in the FEDERAL REGISTER.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 48-5647; Filed, June 23, 1948; 8:49 a. m.]

Chapter XI—Production and Marketing Administration (War Food Distribution Orders)

[WFO 63-30]

PART 1596—FOOD IMPORTS

REVISION OF APPENDIX A

Pursuant to the authority vested in me by War Food Order No. 63, as amended (12 F R. 459) Appendix A to said War Food Order No. 63 is hereby revised to read as follows:

APPENDIX A—ITEMS SUBJECT TO WFO-63

The numbers listed after the following foods are commodity numbers taken from Schedule A, Statistical Classification of Imports of the Department of Commerce (Issue of Sept. 1, 1946). Foods are included in the list to the extent that they are covered by the commodity numbers listed below. If no commodity number is listed, the description given shall control.

Food	Commerce import class No.	Governing date
Babassu nuts and kernels	2239.130, 2239.150	Nov. 13, 1944
Babassu nut oil	2257.100	Do.
Butter	0044.000	Do.
Coconut oil	2242.500	Do.
Combinations and mixtures of animal, vegetable or mineral oils, or any of them, with or without other substances not specially provided for.	2260.120	Do.
Copra	2232.000	Do.
Cottonseed oil, crude, refined	1423.100, 1423.200	Do.
Fatty acids, not specially provided for, derived from vegetable oils, animal or fish oils, animal fats and greases, not elsewhere specified:		
Cottonseed oil	2260.220	Do.
Linseed oil [1]	2260.210	Do.
Soybean oil	2260.230	Do.
Other, not elsewhere specified	2260.240	Do.
Flaxseed (linseed) [1]	2233.000	Do.
Lard (including rendered pork fat) [2]	0036.000	Do.
Lard compounds and lard substitutes made from animal or vegetable oils and fats.[2]	0036.100	Do.
Linseed oil, and combinations and mixtures, in chief value of such oil [1]	2254.000	Do.
Oleo oil [2]	0036.200	Do.
Oleo Stearine [2]	0036.300	Do.
Olive oil, edible:		
In packages weighing less than 40 pounds	1424.000	Feb. 3, 1948
In packages of 40 pounds or over	1425.000	Do.
Olive oil, inedible:		
Sulphured or foots	2244.000	Do.
Other	2245.000	Do.
Palm kernel oil	2248.000	Nov. 13, 1944
Palm nut kernels	2236.500	Do.
Palm oil	2243.000	Do.
Peanut (ground nut) oil	1427.000	Do.
Peanuts, shelled or not shelled [1]	1367.000, 1368.000	Do.
Rapeseed oil, denatured and not denatured [1]	2246.000, 2253.000	Do.
Rice: [1 2]		
Paddy [1 2]	1051.000	Do.
Uncleaned or brown rice [1 2]	1051.100	Do.
Cleaned or milled rice [1 2]	1053.000	Do.
Patna rice, cleaned, for use in canned soups [1 2]	1054.000	Do.
Rice meal, flour, polish and bran [1 2]	1059.100	Do.
Broken [1 2]	1059.200	Do.
Soap and soap powder [2]	8711.000-8719.900, inclusive	Do.
Sunflower oil, edible and denatured [1]	1421.000, 2247.000	Do.
Sunflower seed [1]	2240.000	Do.
Tallow, beef and mutton, including oleo stock [2]	0036.600	Do.
Tallow, beef and mutton (inedible), including oleo stock	0315.600	Do.

[1] See par. (b) (4) (ix).
[2] See par. (b) (5) (i).

This revision shall become effective upon publication in the FEDERAL REGISTER.

(E. O. 9280, 7 F. R. 10179; E. O. 9577, 10 F R. 8087; WFO 63, 12 F R. 459)

Issued this 18th day of June 1948.

[SEAL] LIONEL C. HOLM,
Acting Administrator Production and Marketing Administration.

[F. R. Doc. 48-5636; Filed, June 23, 1948; 8:47 a. m.]

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 116—CIVIL AIR NAVIGATION

DOCUMENTS

JUNE 17, 1948.

1. Section 116.7 of Title 8, Code of Federal Regulations, also designated as § 6.7 of Title 19 and § 71.507 of Title 42, is amended to read as follows:

§ 116.7 *Documents.* (a) The forms described in §§ 116.8 and 116.9 shall be the primary documents required for entry and clearance of aircraft and the listing of passengers and merchandise carried thereon and aliens employed on board thereof. The forms shall be 8½" wide and 14" long and shall be on white bond paper that will not discolor or become brittle within 20 years. If these forms are dittoed or if the entries on them are to be dittoed, the paper must be substance 40, 17" x 22" 1,000-sheet basis; if printed or typewritten, at least 25% rag, substance 26, 17" x 22" 1,000-sheet basis. These forms and the entries thereon must be dittoed, typewritten, or printed, in the English language, with ink or dye that will not fade or "feather" within 20 years. The forms to be used for the entry and clearance of the aircraft, passengers, crew members, and merchandise carried thereon, except the forms of air cargo manifest and air passenger manifest shall be forms approved by the Commissioner of Customs, the Commissioner of Immigration and Naturalization, and the Surgeon General. The form of air cargo manifest shall be approved by the Commissioner of Customs. The form of air passenger manifest shall be approved by the Commissioner of Immigration and Naturalization.

(b) The forms described in §§ 116.8 and 116.9, except the air passenger manifest, may be obtained from collectors of customs upon prepayment by the owner or operator of the aircraft. A small quantity of each of such form shall be set aside by collectors of customs for free distribution and official use. The forms of air passenger manifest may be obtained upon prepayment from the Superintendent of Documents, Government Printing Office, Washington, D. C. A small quantity of such forms shall be set aside by immigration officers in charge for free distribution and official use. The forms of general declaration and air passenger manifest may be printed or dittoed by private parties, provided the forms so printed or dittoed conform to the officially manufactured forms currently in use, with respect to size, wording, arrangement, style and size of type, and paper specifications.

2. Paragraph (b) (2) of § 116.8, *Documents for entry*, of Title 8, Code of Federal Regulations, also designated as § 6.8 of Title 19 and § 71.508 of Title 42, is amended by deleting the third and fourth sentences and inserting instead the following sentence: "Also, where required by immigration regulations, there shall be shown on such manifest the serial numbers of entry documents."

3. Paragraph (c) (1) of § 116.8 of Title 8, Code of Federal Regulations, also designated as § 6.8 of Title 19 and § 71.508 of Title 42, is amended by deleting the language reading as follows: "* * * with a passenger card in the case of each alien passenger as required by paragraph (b) (2) of this section * * *"

4. Paragraph (b) (2) of § 116.9, *Documents for clearance*, of Title 8, Code of Federal Regulations, also designated as § 6.9 of Title 19 and § 71.509 of Title 42, is amended by deleting the first sentence, which reads as follows: "The passenger manifest must state in column 5, in the case of an alien passenger, the date and place of last arrival in the United States."

5. Paragraph (e) (3) of § 116.9 of Title 8, Code of Federal Regulations, also designated as § 6.9 of Title 19 and § 71.509 of Title 42, is amended by deleting the language reading as follows: "* * * and a passenger card concerning each alien passenger, except in cases where such card is not required by the immigration instruction sheet for aircraft,"

6. The first sentence of § 116.10, *Omission of lists of aliens employed on board aircraft*, of Title 8, Code of Federal Regulations, also designated as § 6.10 of Title 19 and § 71.510 of Title 42, is amended by deleting the words "aircraft commander's entry and clearance declarations" and inserting instead the words "crew manifest in the general declaration" so that it will read as follows: "The information required by §§ 116.8 and 116.9 as to aliens employed on board an aircraft may be omitted from the crew manifest in the general declaration in the case of aircraft operated by a sched-

uled air line if its schedules and a list (on a form approved by the Commissioner of Immigration and Naturalization) of such information as to all aliens employed on board the aircraft have been filed by the operator of the aircraft with the immigration officer in charge at the airport of arrival (and at the airport of departure if other than the airport of arrival) shown on such schedules."

The effective date of this order is contingent on, and shall be the same as, the effective date of the amendments by the Attorney General of §§ 116.57 and 116.60, Chapter I, Title 8, Code of Federal Regulations, which were published in the FEDERAL REGISTER of March 25, 1948 (13 F. R. 1587) as a notice of proposed rule making.[1] It is planned to have both amendments become effective on July 1, 1948, or as soon thereafter as possible. Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C., Sup., 1003) as to notice of proposed rule making and delayed effective date is unnecessary because the rules prescribed by the order relieve restrictions and are clearly advantageous to persons affected thereby.

(R. S. 161, 251, sec. 23, 39 Stat. 892, sec. 24, 43 Stat. 166, sec. 7, 44 Stat. 572, sec. 644, 46 Stat. 761, secs. 367, 602, 58 Stat. 706, 712; 5 U. S. C. 22, 19 U. S. C. 66, 1644, 8 U. S. C. 102, 222, 49 U. S. C. 177, 42 U. S. C., 201 note, 270; sec. 1, Reorg. Plan No. V, 5 F. R. 2132, 2223, sec. 102, Reorg. Plan No. 3 of 1946, 11 F. R. 7875)

TOM C. CLARK,
Attorney General.
FRANK DOW,
Acting Commissioner of Customs.
E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.
LEONARD A. SCHEELE,
Surgeon General,
Public Health Service.

Approved:

OSCAR EWING,
Federal Security Administrator.

[F. R. Doc. 48-5634; Filed, June 23, 1948; 8:47 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Bureau of Animal Industry, Department of Agriculture

Subchapter F—Animal Breeds

[B. A. I. Order 365, Amdt. 20]

PART 151—RECOGNITION OF BREEDS AND PUREBRED ANIMALS

HORSES; BOOK OF RECORD RECOGNITION

Pursuant to the authority vested in the Secretary of Agriculture by paragraph 1606, section 201, Title II, of the act of June 17, 1930 (46 Stat. 673; 19 U. S. C. 1201, par. 1606), paragraph (a) of § 151.6, Chapter I, Title 9, Code of Federal Regulations, as amended (paragraph 1, section 2, regulation 2, B. A. I. Order 365) is amended by adding to the subdivision of said paragraph relating to horses the following breed and book of record:

[1] Promulgated June 4, 1948 (13 F. R. 2984), to be effective July 1, 1948.

HORSES

Name of breed	Book of record	By whom published
Thoroughbred	Libro Genealogico del Cavalli di Puro Sangue.[1]	Jockey Club Italiano, Mr. Lanci, Secretary, Piazza Montecitorio 121, Rome, Italy.

[1] Provided that no horse or horses registered in this book shall be certified as purebred unless a certificate giving three generations of complete and recorded purebred ancestry, issued by the organization named, is submitted for each horse.

This amendment shall become effective on publication in the FEDERAL REGISTER.

The importation into the United States of purebred animals for breeding purposes benefits the public by improving the breeds of animals in the United States. Congress has recognized this fact in paragraph 1606, section 201 of the act of June 17, 1930 (19 U. S. C. 1201, par. 1606) under which purebred animals imported by United States citizens may be imported duty-free if they are certified by the Department of Agriculture as registered in a book of record recognized by the Secretary of Agriculture for the particular breeds. Pending issuance of such certificate, the importer is required by regulations of the United States Customs Bureau to post a bond valid for a limited period and subject to forfeiture unless the certificate is obtained and submitted to the Customs Bureau within such time. Certificates have been requested from the Department of Agriculture for Thoroughbred horses registered in the book of record specified above which has not heretofore been recognized by the Secretary of Agriculture in his regulations under said act. The Secretary of Agriculture has determined that the regulations should be amended to recognize such book of record and thereby to relieve restrictions upon the importation of such horses. The foregoing amendment to accomplish this purpose should be made effective as soon as possible in order to be of maximum benefit to the public and to prevent unnecessary hardship to importers through forfeiture of their bonds. Good cause is therefore found, pursuant to the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238) that notice and public procedure on this amendment are impracticable, unnecessary and contrary to the public interest, and inasmuch as this amendment relieves restrictions otherwise imposed, it is within the exceptions in section 4 (c) of the Administrative Procedure Act and may properly be made effective less than 30 days after its publication in the FEDERAL REGISTER.

(46 Stat. 673; 19 U. S. C. 1201, par. 1606)

Issued this 21st day of June 1948.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 48-5649; Filed, June 23, 1948; 8:49 a. m.]

TITLE 11—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 80—GENERAL RULES OF PROCEDURE ON APPLICATIONS FOR THE DETERMINATION OF REASONABLE ROYALTY FEE, JUST COMPENSATION, OR THE GRANT OF AN AWARD FOR PATENTS, INVENTIONS OR DISCOVERIES

GENERAL PROVISIONS

Sec.
80.1 Scope of the regulations.
80.2 Definitions.
80.3 Notices.
80.4 Security.
80.5 Amendment.

APPLICATIONS

80.10 Applicants.
80.11 Form and content.
80.12 Filing of applications.

EXAMINATION AND RESPONSE

80.20 Examination.
Sec.
80.21 Recommendation for acquisition by purchase.
80.22 Response.

PREHEARING CONFERENCE

80.30 Designation.
80.31 Conference procedure.

HEARING

80.40 Notice.
80.41 Order of procedure.
80.42 Submission and receipt of evidence.
80.43 Transcript of the testimony.
80.44 Oral arguments; proposed findings; written arguments.
80.45 Copies of the record of the hearing.
80.50 Formulation.

PROPOSED FINDINGS AND DETERMINATION

Sec.
80.51 Exceptions.

ADJUDICATION

80.60 Final action.

AUTHORITY: §§ 80.1 to 80.60, inclusive, issued under 60 Stat. 755; 42 U. S. C. 1811.

NOTE: The regulations in this part appeared in proposed form at 13 F. R. 2487.

GENERAL PROVISIONS

§ 80.1 *Scope of the regulations.* The regulations in this part provide the rules of procedure to be followed by any person making application to the Atomic Energy Commission for the determination of a reasonable royalty fee, just compensation, or the grant of an award, and for the consideration of such applications pursuant to subsection (e) of section 11 of the Atomic Energy Act of 1946 (60 Stat. 755, 768; 42 U. S. C. 1811)

§ 80.2 *Definitions.* (a) All terms used in the regulations in this part which are defined in the Atomic Energy Act shall have the defined meaning.

(b) "Board" shall mean the Patent Compensation Board designated by the Commission pursuant to subsection (e) (1) of section 11 of the act.

(c) "Application" shall mean the application provided for in §§ 80.10 to 80.12, inclusive.

(d) "Response" shall mean the document, to be filed by the Office of the General Counsel of the Commission, provided for in § 80.22.

(e) "Party" shall mean the applicant (personally or through his counsel) and the Office of the General Counsel of the Commission, as the text may indicate. Each applicant shall be entitled to be represented by counsel.

§ 80.3 *Notices.* All notices required by this part and the service of all documents will be by registered mail and will be effective as of the time received.

§ 80.4 *Security.* In any proceeding under the regulations in this part, the Commission may issue any general or specific order, directive, or further regulation which it determines to be appropriate pursuant to section 10 of the act to assure the common defense and security.

§ 80.5 *Amendment.* Nothing in this part shall limit the authority of the Commission to issue or amend its regulations in accordance with law.

APPLICATIONS

§ 80.10 *Applicants.* (a) Any person claiming just compensation for any patent revoked in whole or in part by paragraph (1) and (2) of subsection (a) or by subsection (b) of section 11 of the act may file an application for just compensation.

(b) Any person claiming just compensation for any invention or discovery, or for any patent or patent application covering such invention or discovery, taken, requisitioned, or condemned by the Commission pursuant to subsection (d) of section 11 of the act may file an application for just compensation.

(c) Any person claiming a reasonable royalty fee for the use of an invention or discovery covered by any patent declared to be affected with a public interest pursuant to paragraph (1) of subsection (c) of section 11 of the act, or any person who has been licensed pursuant to section 11 (c) (2) of the act to utilize the invention or discovery covered by such patent and is unable to reach an agreement with the owner thereof, may file an application for the determination of a reasonable royalty fee.

(d) Any person who has made any invention or discovery covered by paragraph (3) of subsection (a) of section 11 of the act, who is not entitled to compensation therefor under subsection (a) of section 11, and who has complied with the provisions of paragraph (3) of subsection (a), may file an application for an award.

§ 80.11 *Form and content.* (a) Each application shall be signed by the applicant and shall state his name and post office address. Where the applicant elects to be represented by counsel, a request for entry of counsel's appearance shall be filed with or after the application, on a form obtainable from the Clerk of the Board.

(b) Each application shall contain a statement of the applicant's interest in the patent, patent application, invention or discovery, identifying any other claimants of whom the applicant has knowledge.

(c) Each application must contain a concise statement of all of the essential facts upon which it is based. No particular form of statement is required, but it will facilitate consideration of the application if the following specific data accompany the application:

(1) In the case of an issued patent, a copy of the patent;

(2) In the case of a patent application, a copy of the application and of all Patent Office actions and responses thereto;

(3) In the case of an invention or discovery as to which a report has been filed with the Commission pursuant to paragraph (3) of subsection (a) of section 11 of the act, a copy of such report.

(4) The date relied upon as the date of invention.

(5) In all cases, a statement of the extent to which, if any, the invention or discovery was developed through federally financed research; the degree of its utility, novelty, and importance.

(6) In the case of an application for just compensation or an award, a statement of the actual use of such invention or discovery, to the extent known to the applicant.

(7) In all cases, the cost of developing the invention or discovery or acquiring the patent or patent application.

(8) The reasonable royalty fee proposed, or the amount sought as just compensation or award; the basis used in calculating it; and whether lump sum or periodic payments are sought.

(d) Each connected series of statements shall be set forth in separately numbered paragraphs in the application. Any exhibits or documents which accompany the application may be incorporated by reference.

(e) All applications shall be verified by the applicant or by the person having the best knowledge of such facts. In the case of facts stated on information and belief the source of such information and grounds of belief shall be given.

§ 80.12 *Filing of applications.* (a) Five copies of each application shall be filed with the Clerk of the Board. At the applicant's election, only one copy of the accompanying exhibits need be filed.

(b) The Clerk of the Board will acknowledge the receipt of the application in writing and advise the applicant of the docket number assigned to the application.

(c) All communications concerning the application and all documents thereafter filed in the proceeding shall bear the docket number of the application.

EXAMINATION AND RESPONSE

§ 80.20 *Examination.* Upon receipt of the application, a preliminary examination will be made by the Commission staff.

§ 80.21 *Recommendation for acquisition by purchase.* At any time following the filing of an application and prior to final determination, the applicant may be requested in writing to meet with one or more members of the Commission staff to discuss the possibility of acquisition by purchase of the invention or discovery or patent or patent application, as the case may be, pursuant to subsection (d) of section 11 of the act. The time prescribed in § 80.22 for the filing of the response shall be extended by a time equivalent to any period in which negotiations are being conducted (beginning with the initial communication to the applicant and ending either with acceptance or rejection of a proposal or with a written communication by the applicant stating that negotiations are to be terminated)

§ 80.22 *Response.* Within a reasonable time and in no event more than four (4) months after receipt of the application, unless such time shall have been extended by special order of the Board for cause or pursuant to § 80.21, the Office of the General Counsel shall file with the Clerk of the Board a response containing a concise statement of the facts or law constituting a defense or any other relevant matter which it believes should be considered by the Board.

PREHEARING CONFERENCE

§ 80.30 *Designation.* In any proceeding in which the Board in its discretion determines that a prehearing conference would be desirable, the Board may designate one of its members to preside at a prehearing conference to which the parties shall, upon reasonable notice, be invited to appear.

§ 80.31 *Conference procedure.* (a) The prehearing conference shall be conducted in an informal manner and shall be devoted to a consideration of

(1) The simplification of the issues;

(2) The necessity or desirability of amendment or amplification of the application or the response;

(3) The possibility of obtaining agreement as to facts and documents which will avoid unnecessary proof;

(4) Such other matters as may facilitate the consideration by the Board.

(b) The Board member presiding at such conference shall prepare, with the assistance of the parties, a memorandum of matters upon which agreement has been reached, and such memorandum shall, when signed by the parties, become a part of the record.

HEARING

§ 80.40 *Notice.* The Board shall in each case afford an opportunity for a hearing for the receipt of relevant evidence. At least thirty (30) days notice shall be given of the time and place of such hearing.

§ 80.41 *Order of procedure.* Ordinarily evidence in support of the application shall be received first and thereafter evidence in reply. Thereafter rebuttal and any necessary additional evidence shall be received.

§ 80.42 *Submission and receipt of evidence.* (a) Each witness shall, before proceeding to testify, be sworn or make affirmation.

(b) When necessary in order to prevent undue prolongation of the hearing, the Board may limit the amount of corroborative or cumulative evidence, may restrict the repetitious examination or cross-examination of witnesses, and shall otherwise control the conduct of the proceeding.

(c) The Board shall admit only relevant and material evidence.

(d) Opinion evidence shall be admitted when the Board is satisfied that the witness is properly qualified.

(e) Evidence may be received in affidavit form in the discretion of the Board. All affidavits shall be submitted not later than the opening of the hearing unless the Board for cause shown shall receive them at a later time. Each party shall be permitted to examine all affidavits received in evidence, and to file counter affidavits within such period as the Board shall fix. In determining the weight to be attached to testimony contained in affidavits, the Board shall consider the lack of opportunity for cross-examination.

(f) Opportunity shall be afforded for the cross-examination of witnesses. Objections to the admission or rejection of any evidence or to any limitation of the scope of examination or cross-examination shall state briefly the grounds of such objection and the transcript shall not include argument on such objection except as ordered by the Board. No objection may subsequently be relied upon unless timely made, and the ruling on each objection shall be made part of the transcript, together with any offer of proof which may be made.

(g) In the conduct of the hearing the Board shall ensure compliance with the security regulations and requirements of the Commission and take whatever steps it may deem appropriate to assure the common defense and security pursuant to the provisions of the act.

§ 80.43 *Transcript of the testimony.* Testimony given at a hearing shall be reported verbatim. All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall be marked for identification and, upon a showing satisfactory to the Board of their authenticity, relevance, and materiality, shall be received and marked as exhibits in evidence. Such exhibits (including affidavits) shall, if practicable, be submitted in quintuplicate. Where the required number of copies are not made available, the Board may in its discretion order the exhibit read in evidence or require additional copies to be submitted within a specified time.

§ 80.44 *Oral arguments; proposed findings; written arguments.* (a) In its discretion the Board may authorize oral argument at the close of the hearing.

(b) The Board shall announce at the hearing a reasonable period within which either party may submit to the Board proposed findings and a proposed recommendation. Such proposals shall be in writing in quintuplicate, and copies shall be served on the opposing party.

(c) At the time fixed for the submission of proposed findings, either party may file written arguments in support based upon the evidence received at the hearing, citing the page or pages of the transcript of the testimony where such evidence may be found.

§ 80.45 *Copies of the record of the hearing.* The Board shall make provision for a stenographic record of the testimony and for furnishing it to the applicant upon payment of the cost. Suggested corrections to the transcript of the testimony shall be considered only if filed within a period to be fixed by the Board. Upon receipt of such suggested corrections, the Board in its discretion shall correct the transcript.

PROPOSED FINDINGS AND DETERMINATION

§ 80.50 *Formulation.* (a) Within a reasonable time after the close of the hearing the Board shall prepare and serve upon the parties its proposed findings and proposed determination and a statement of the reasons or basis therefor. The proposed findings and proposed determination shall be based upon the entire record and supported by reliable, probative and substantial evidence. On issues of fact, no finding shall be proposed except when deemed by the Board to be supported by the greater weight of the evidence. The proposed findings and proposed determination, together with the statement of the reasons or basis therefor, shall become part of the record.

(b) The Board shall further make a ruling upon each proposed finding and proposed recommendation presented by either party pursuant to § 80.44 (b) Such rulings shall be served upon each party and shall become part of the record.

§ 80.51 *Exceptions.* Either party may, within twenty (20) days after receipt of a copy of the proposed findings and proposed determination of the Board, unless such time shall have been extended by special order of the Board for cause, file with the Clerk of the Board exceptions to any part thereof or to the failure of the Board to include proposed findings requested under § 80.44. The exceptions may be accompanied by briefs in support. Five (5) copies of the exceptions and the supporting briefs shall be filed, and a copy served upon the other party. The exceptions but not the supporting briefs shall become part of the record.

ADJUDICATION

§ 80.60 *Final action.* (a) Upon the expiration of the period prescribed in § 80.51, the Board shall proceed to a final consideration of the application on the basis of the entire record, including any exceptions, and the briefs in support filed by either party. The Board shall resolve questions of fact by what it deems to be the greater weight of the evidence and shall make its decision on the entire record. Its findings as to the facts shall be supported by reliable, probative and substantial evidence. The Board shall enter an appropriate order, together with a statement of its reasons or basis, determining a reasonable royalty fee, the amount of just compensation, or the amount of an award as the case may be.

(b) The Board shall further make a ruling upon each exception presented by either party pursuant to § 80.51.

(c) The order of the Board shall constitute the final action of the Commission.

Dated at Washington, D. C., this 18th day of June 1948.

UNITED STATES ATOMIC ENERGY COMMISSION,
CARROLL L. WILSON,
General Manager.

[F. R. Doc. 48-5631; Filed, June 23, 1948; 8:46 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Supp. 1]

PART 40—AIR CARRIER OPERATING CERTIFICATION

AIR CARRIER OPERATING SKILL; CAA SPECIFICATIONS

Part 40 relates to scheduled air carriers engaged in interstate air transportation within the continental limits of the United States. Section 40.291 provides that an applicant for an air carrier operating certificate shall demonstrate to the satisfaction of the Administrator its ability to conduct a safe operation over the entire route to be flown; and that such demonstration shall be by means of actual flights over each proposed route employing such of the proposed aircraft, airmen, and operating and maintenance procedures and techniques as the Administrator may deem necessary, unless the Administrator after investigation expressly finds that the proposed route modification is minor and that an actual flight is not essential to safety.

Acting pursuant to the foregoing authority, the following specifications are hereby adopted. They are issued without delay in order to promote safety of the flying public. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act (60 Stat. 237, 238; 5 U. S. C. 1001, 1003) would be impracticable, unnecessary, and contrary to the public interest, and therefore is not required.

§ 40.291 *Air carrier operating skill.*

* * *

CAA SPECIFICATIONS

1. *Introduction.* The Administrator has the responsibility of determining when route proving flights are necessary. When an air carrier believes that actual route proving flights are not required by the Civil Air Regulations, its officials must submit to the Civil Aeronautics Administration office handling the air carrier's operating certificate, a written request for elimination of such flights. The Administration will undertake an investigation, during which consideration will be given to (a) the nature of the operation to be conducted, and (b) the personnel, equipment, and facilities involved. After investigation, the air carrier will be advised by the Administration (a) that the proposed route modification is minor, and actual route proving flights are not essential to safety, or (b) that actual route proving flights will be required. (For example, a scheduled air carrier may have been granted a minor extension to an existing route, and the extension may be over an airway that is adequately implemented with conventional aids to air navigation. In many such instances, it might be obvious that the proposed operations could be conducted over such a route in accordance with existing safety standards, and in such cases the proving flights would serve no useful purpose.)

2. *Purpose.* The purpose of route proving flights is to determine the air carrier's ability to conduct the proposed operation in compliance with applicable provisions of the Civil Air Regulations and in accordance with the minimum safety requirements of the Civil Aeronautics Administration. Such determination is predicated upon (a) the adequacy of the facilities provided by, or available to, the air carrier, including, but not

limited to, aircraft, airports, lighting facilities, maintenance facilities, communication and navigation facilities, fueling facilities, and ground and aircraft radio facilities, and (b) the competency of the pilot, dispatcher, and other airmen or personnel.

3. *Application.* At least 15 days prior to the scheduling of route proving flights, officials of the air carrier shall submit to the Civil Aeronautics Administration office handling its operations specifications, a written request for the assignment of Civil Aeronautics Administration personnel to observe the flights. This request must be accompanied by an original application and copies of pertinent proposed amendments to the operations specifications, and must include sufficient data pertaining to the route to satisfy the Administrator that the air carrier is prepared for the route proving flights. This will allow sufficient time for making any necessary additions or corrections, thus preventing delays or misunderstandings.

4. *Conduct.* After the air carrier has made all the necessary preparations to conduct the route proving flights, duly designated representatives of the Civil Aeronautics Administration will be assigned to observe them. All route proving flights shall be undertaken exactly as the operator intends to operate in scheduled air transportation when carrying passengers, property, or mail, or any combination thereof. However, passengers who are not essential to conducting the proving flights must not be carried during such flights. Air carrier personnel assigned to conduct the route proving flights shall be regular crew members who, it is anticipated, will be assigned to the route.

5. *Duration.* Route proving flights shall continue until the air carrier has demonstrated to the satisfaction of the Administrator that it is competent to conduct a safe operation over the entire route to be flown in air transportation.

6. *Conclusion.* On completion of the route proving flights, a reasonable period of time will be required in order that the information gained during the flights can be compiled by the field office and submitted, with recommendations regarding approval, to appropriate supervisory personnel of the Civil Aeronautics Administration.

(Secs. 205, 601, 52 Stat. 984, 1007; 54 Stat. 1231, 1233–1235, 49 U. S. C. 425, 551)

These specifications shall become effective upon publication in the FEDERAL REGISTER.

D. W RENTZEL,
Administrator of Civil Aeronautics.

[F. R. Doc. 48-5622; Filed, June 23, 1948; 8:46 a. m.]

[Supp. 1]

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE THE CONTINENTAL LIMITS OF THE UNITED STATES

ROUTE OPERATION PROVING FLIGHTS AND AIRCRAFT PROVING TESTS; CAA SPECIFICATIONS

Section 41.508 provides that before it may carry passengers on any new route or any extension of over 100 miles to a route previously authorized, an air carrier shall demonstrate its ability to conduct a safe operation while making such flights over the route as the Administrator may require in the interest of safety.

Section 41.509 provides in part that a new make or model of aircraft shall have at least 100 hours of proving tests under the supervision of an authorized representative of the Administrator, before an air carrier is issued authority to carry passengers in it; that at least 50 hours of such tests shall be flown over authorized routes, and shall include at least 10 hours of night operation; and that in case of major changes on aircraft previously proved, or use of the same aircraft on a substantially different operation, 50 hours of tests shall be required, of which at least 25 hours shall be flown over authorized routes.

Acting pursuant to the foregoing authority, the following specifications are hereby adopted. They are issued without delay, in order to promote safety of the flying public. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act (60 Stat. 237, 238; 5 U. S. C. 1001, 1003) would be impracticable, unnecessary, and contrary to the public interest, and therefore is not required.

§ 41.508. *Route operation proving flights.* * * *

CAA SPECIFICATIONS

The specifications published under § 40.291 apply also to § 41.508, except as stated hereinafter: In paragraph 3, entitled *Application,* sentence 1, substitute "30" for "15"

§ 41.509 *Aircraft proving tests.* * * *

CAA SPECIFICATIONS

The specifications published under § 61.791 apply also to § 41.509, except as stated hereinafter: In paragraph 3, entitled *Application,* sentence 1, substitute "30" for "15"

(Sec. 205, 601, 52 Stat. 984, 1007; 54 Stat. 1231, 1233–1235; 49 U. S. C. 425, 551)

These specifications shall become effective upon publication in the FEDERAL REGISTER.

D. W RENTZEL,
Administrator of Civil Aeronautics.

[F. R. Doc. 48-5623; Filed, June 23, 1948; 8:46 a. m.]

[Supp. 2]

PART 61—SCHEDULED AIR CARRIER RULES

AIR CARRIER AIRCRAFT PROVING PERIOD; CAA SPECIFICATIONS

Part 61 relates to scheduled air carriers engaged in interstate air transportation within the continental limits of the United States. Section 61.791 provides in part that all air carrier aircraft of a new make or model shall have at least 100 hours of proving tests in the hands of an air carrier under the supervision of an authorized representative of the Administrator before authority for carrying passengers may be issued; that at least 50 hours of such tests shall be in scheduled air carrier operation and include at least 10 hours of night operation; and that in the case of major changes on aircraft previously proved, or the use of the same aircraft on a different operation, 50 hours of proving tests may be required, at least 25 hours of which shall be in scheduled operation.

Acting pursuant to the foregoing authority, the following specifications are hereby adopted. They are issued without delay, in order to promote safety of the flying public. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act (60 Stat. 237, 238; 5 U. S. C. 1001, 1003) would be impracticable, unnecessary, and contrary to the public interest, and therefore is not required.

§ 61.791 *Air carrier aircraft proving period.* * * *

CAA SPECIFICATIONS

1. *Purpose.* The purpose of aircraft proving tests is to determine the air carrier's ability to conduct the proposed operation in compliance with applicable provisions of the Civil Air Regulations and in accordance with the minimum safety requirements of the Civil Aeronautics Administration.

2. *Application.* At least 15 days prior to the scheduling of aircraft proving tests, officials of the air carrier shall submit to the Civil Aeronautics Administration office handling its operations specifications, a written request for the assignment of Civil Aeronautics Administration personnel to observe the tests. This request must be accompanied by an original application and copies of pertinent proposed amendments to the operations specifications, and must include sufficient data pertaining to the aircraft to satisfy the Administrator that the air carrier is prepared for the aircraft proving tests. This will allow sufficient time for making any necessary additions or corrections, thus preventing delays or misunderstandings.

3. *Conduct.* After the air carrier has made all the necessary preparations to conduct the aircraft proving tests, duly designated representatives of the Civil Aeronautics Administration will be assigned to observe them. Such portions of the aircraft proving tests as may be conducted under conditions of scheduled operation, shall be undertaken exactly as the operator intends to operate in scheduled air transportation when carrying passengers, property, or mail, or any combination thereof. Air carrier personnel assigned to conduct the aircraft proving tests shall be regular crew members who, it is anticipated, will be assigned to the aircraft.

4. *Conclusion.* On completion of the aircraft proving tests, a reasonable period of time will be required in order that the information gained during the tests can be compiled by the field office and submitted, with recommendations regarding approval, to appropriate supervisory personnel of the Civil Aeronautics Administration.

(Secs. 205, 601, 52 Stat. 984, 1007; 54 Stat. 1231, 1233–1235; 49 U. S. C. 425, 551)

These specifications shall become effective upon publication in the FEDERAL REGISTER.

D. W RENTZEL,
Administrator of Civil Aeronautics.

[F. R. Doc. 48-5624; Filed, June 23, 1948; 8:47 a. m.]

Chapter II—Civil Aeronautics Administration

PART 910—PROVING FLIGHTS AND TESTS FOR SCHEDULED AIR CARRIERS

REVOCATION OF PART

Part 910, published in 13 F R. 2128–2129, is hereby revoked. It is superseded by the specifications published herewith in Chapter I under Part 40, § 40.291, and Part 61, § 61.791, *supra.*

(Secs. 205, 601, 52 Stat. 984, 1007, 54 Stat. 1231, 1233–1235; 49 U. S. C. 425, 551)

D. W RENTZEL,
Administrator of Civil Aeronautics.

[F. R. Doc. 48-5625; Filed, June 23, 1948; 8:47 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 51950]

PART 5—CUSTOMS RELATIONS WITH CONTIGUOUS FOREIGN TERRITORY

MERCHANDISE IN TRANSIT THROUGH UNITED STATES

Section 5.11 (a) Customs Regulations of 1943, relating to merchandise in transit through the United States between ports of Canada or Mexico, further amended.

The Bureau of the Census, Department of Commerce, has advised that a statistical copy of customs Form 7512 covering merchandise shipped in bond through the United States between ports of Canada or Mexico is no longer required. Only three copies of Form 7512 will be necessary in connection with such shipments in the future.

Therefore, § 5.11 (a) Customs Regulations of 1943 (19 CFR, Cum. Supp., 5.11 (a)) as amended, is hereby further amended by substituting the word "three" for the word "four" in the first sentence.

(Sec. 553, 46 Stat. 742, sec. 21, 52 Stat. 1087; 19 U. S. C. 1553)

[SEAL] W. R. JOHNSON,
Acting Commissioner of Customs.

Approved: June 17, 1948.

A. L. M. WIGGINS,
Acting Secretary of the Treasury.

[F. R. Doc. 48-5633; Filed, June 23, 1948; 8:49 a. m.]

PART 6—AIR COMMERCE REGULATIONS

DOCUMENTS

CROSS REFERENCE: For amendments to §§ 6.7, 6.8, 6.9, and 6.10, see Title 8, Chapter I, Part 116, *supra*.

TITLE 25—INDIANS

Chapter I—Office of Indian Affairs, Department of the Interior

PART 02—DELEGATION OF AUTHORITY

FUNCTIONS RELATING TO SUPPLY CONTRACTS

Part 02, Delegation of Authority, is amended by the addition of a new section as follows:

§ 02.11 *Functions relating to supply contracts.* (a) The Purchasing Officer, Chicago Purchasing Office, of the Bureau of Indian Affairs may act in relation to the following classes of matters without obtaining approval of the Commissioner:

(1) The negotiation and execution of contracts irrespective of amount, covering the purchase of supplies, materials, equipment and other items required in connection with the annual operations of the Bureau of Indian Affairs, said contracts to be in conformity with applicable regulations and statutory requirements and subject to the availability of appropriations. The Purchasing Officer, however, may request the Commissioner's approval of any proposed contract.

(2) With respect to any contract entered into under authority contained in subparagraph (1) of this paragraph, including a contract approved by the Commissioner, the Purchasing Officer may enter into modifications of contracts which are legally permissible and terminate contracts, if such action is legally authorized.

(R. S. 161, 463; 5 U. S. C. 22, 25 U. S. C. 1a, 2)

Dated: June 18, 1948.

WILLIAM ZIMMERMAN, Jr.,
Acting Commissioner.

[F. R. Doc. 48-5614; Filed, June 23, 1948; 8:49 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter I—Secretary of Defense

[Transfer Order 16]

ORDER TRANSFERRING FROM DEPARTMENT OF ARMY TO DEPARTMENT OF AIR FORCE CERTAIN FUNCTIONS PERTAINING TO APPOINTMENT, PROMOTION, REDUCTION, DEMOTION, RETIREMENT, RESIGNATION, REVOCATION OF COMMISSION, DISCHARGE, DISMISSAL AND SEPARATION OF AIR FORCE MILITARY PERSONNEL

Pursuant to the authority vested in me by the National Security Act of 1947 (Act of July 26, 1947; Public Law 253, 80th Congress) and in order to effect certain transfers authorized or directed therein, it is hereby ordered as follows:

1. In addition to the functions, powers, and duties transferred by Transfer Order No. 2, National Military Establishment, and subject to the provisions of paragraph 6, hereof, there are hereby transferred to and vested in the Secretary of the Air Force and the Department of the Air Force, insofar as they pertain to military personnel of the Department of the Air Force, the functions, powers, and duties relating to appointment, promotion, reduction, demotion, retirement, resignation, revocation of commission, discharge, dismissal and separation of military personnel which are vested in the Secretary of the Army or the Department of the Army, or any officer of that Department, by the following laws, parts of laws and Executive Orders, as limited by other laws, parts of laws and Executive Orders not specifically set forth herein:

a. Act of July 31, 1935, c. 422, sec. 5, (49 Stat. 507) as amended by the act of June 13, 1940, c. 344, sec. 3, (54 Stat. 380) and the act of August 7, 1947, c. 512, Title V, sec. 514 (g), 521 (a) (61 Stat. 906, 912; 10 U. S. C. 943a, 971b)

b. Act of October 1, 1890, c. 1241, sec. 3, (26 Stat. 562; 10 U. S. C. 932).

c. Act of February 2, 1901, c. 192, sec. 32 (32 Stat. 756; 10 U. S. C. 556a).

d. Act of June 30, 1882, c. 254, sec. 1, (22 Stat. 117; 10 U. S. C. 945)

e. Act of August 21, 1941, c. 384, sec. 5, (55 Stat. 653; 10 U. S. C. 594).

f. Act of June 3, 1916, c. 134, sec. 24b, as amended by the act of June 4, 1920, c. 227, subch. I, sec. 24, (41 Stat. 773; 10 U. S. C. 571).

g. Act of June 3, 1916, c. 134, sec. 23, (39 Stat. 181) as amended by the act of June 4, 1920, c. 227, subch. 1, sec. 23, (41 Stat. 771) and the act of July 25, 1939, c. 338, (53 Stat. 1074; 10 U. S. C. 484a).

h. Act of June 29, 1943, c. 178, secs. 3, 4, 7, (57 Stat. 249; 10 U. S. C. 985b, 985c, 985f)

i. Act of June 22, 1944, c. 268, Title I, sec. 200, 302, (58 Stat. 285, 287) as amended by the act of December 28, 1945, c. 588, sec. 3, 4, (59 Stat. 623; 38 U. S. C. 693f, 693i).

j. Act of June 22, 1944, c. 268, Title I, sec. 301, (58 Stat. 286) as amended by the act of August 8, 1946, c. 882, (60 Stat. 932; 38 U. S. C. 693h).

k. Act of June 30, 1941, c. 263, sec. 1, 5, (55 Stat. 394, 395; 10 U. S. C. 656, 957)

l. Act of June 30, 1941, c. 263, sec. 2, (55 Stat. 394), as amended by the act of May 4, 1945, c. 103, (59 Stat. 135; 10 U. S. C. 939)

m. Act of June 30, 1941, c. 263, sec. 6, (55 Stat. 395).

n. Act of June 16, 1890, c. 426, sec. 4, (26 Stat. 158; 10 U. S. C. 651)

o. Act of June 28, 1947, c. 162, sec. 1, (61 Stat. 191; 10 U. S. C. 628).

p. Act of June 3, 1916, c. 134, sec. 29, (39 Stat. 187) as amended by the act of June 4, 1920, c. 227, subch. I, sec. 29, (41 Stat. 775; 10 U. S. C. 652).

q. Act of August 18, 1941, c. 362, sec. 4 (55 Stat. 627; 50 App. U. S. C., Supp. V, 354).

r. Act of June 4, 1920, c. 227, subch. II, sec. 1 (41 Stat. 809; 10 U. S. C. 1589).

s. Act of March 2, 1907, c. 2515, sec. 1 (34 Stat. 1217), as amended by the act of June 16, 1942, c. 413, sec. 19 (56 Stat. 369; 10 U. S. C. 947)

t. Act of February 14, 1885, c. 67 (23 Stat. 305), as amended by the act of September 30, 1890, c. 1125 (26 Stat. 504; 10 U. S. C. 947a).

u. Act of October 6, 1945, c. 393, sec. 4 (59 Stat. 539) as amended by the act of August 10, 1946, c. 952, sec. 6 (a) (60 Stat. 995; 10 U. S. C. 948).

v. Act of March 7, 1942, c. 159 (56 Stat. 140; 10 U. S. C. 919).

w. Act of June 28, 1947, c. 162, sec. 2 (61 Stat. 192; 10 U. S. C. 636a).

x. Act of August 21, 1941, c. 384, secs. 1, 2, 3, 4 (55 Stat. 651, 652, 653; 10 U. S. C. 593a, 591, 591a, 593, 599)

y. Act of July 28, 1942, c. 528, sec. 4 (56 Stat. 723; 10 U. S. C. 612).

z. All other laws, parts of laws, including applicable provisions of appropriations acts, and Executive orders which vest in the Secretary of the Army or the Department of the Army or any officer of that Department, functions, powers, and duties relating to promotion, reduction, demotion, retirement, resignation, revocation of commission, discharge, dismissal, and separation of military personnel, insofar as they pertain to military personnel of the Department of the Air Force.

2. There are hereby transferred to the Department of the Air Force all retired commissioned officers, warrant officers, and enlisted personnel on the Retired List of the United States Army who, at

the time of their retirement, were members of the Aviation Section, Signal Corps, United States Army· the Air Service, United States Army· the Air Corps, United States Army· or the Army Air Forces (except Army personnel of other Arms and Services who were assigned or attached for duty with the Army Air Forces at the time of their retirement).

3. In exercising the functions, powers and duties transferred to the Secretary of the Air Force and the Department of the Air Force under subparagraphs 1 and j of paragraph 1 hereof, the Board or Boards of Review which may be established by the Secretary of the Air Force pursuant to authority conferred in sections 301 and 302 of Title I, c. 268, act of June 22, 1944, as amended by c. 882 of act of August 8, 1946 and section 4, c. 588, act of December 28, 1945 (38 U. S. C. 693 h, i) shall have jurisdiction and authority to review and determine all cases within the contemplation of said sections 693 (h) (i) of 38 U. S. C. which involve personnel who, at the time of their separation from the service, were members of the Aviation Section, Signal Corps, United States Army· the Air Service, United States Army· the Air Corps, United States Army· the Army Air Forces; or the United States Air Force; and the review authority conferred by 38 U. S. C. 693 (h) and transferred to the Secretary of the Air Force by paragraph 1j hereof shall be exercised with respect to cases involving the same personnel, *Provided, however* That Army personnel of other Arms and Services who, at the time of their separation from the service, were assigned to duty with the Army Air Forces or the United States Air Force shall be excluded from such jurisdiction and authority of the Secretary of the Air Force and such Air Force Board or Boards of Review.

4. It is expressly determined that the functions herein transferred are necessary and desirable for the operations of the Department of the Air Force and the United States Air Force.

5. The Secretary of the Army, the Secretary of the Air Force, or their representatives are hereby authorized to issue such orders as may be necessary to effectuate the purposes of this order. In this respect, the transfer of such related personnel, property, records, installations, agencies, activities, and projects as the Secretaries of the Army and the Air Force shall from time to time jointly determine to be necessary, is authorized.

6. Nothing contained in this order shall operate as a transfer of any military justice functions, and the Secretary of the Army and the Department of the Army will continue to perform for the Department of the Air Force to the same extent as at present until otherwise ordered any military justice functions which relate to the functions herein transferred.

7. Nothing contained in this order shall operate as a transfer of funds.

8. This order shall be effective at 12:00 noon, June 14, 1948.

JAMES FORRESTAL,
Secretary of Defense.

JUNE 14, 1948.

[F. R. Doc. 48-5615; Filed, June 23, 1948; 8:45 a. m.]

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Federal Security Agency

PART 71—FOREIGN QUARANTINE

DOCUMENTS

CROSS REFERENCE: For amendments to §§ 71.507, 71.508, 71.509, and 71.510, see Title 8, Chapter I, Part 116, *supra.*

PART 71—FOREIGN QUARANTINE

DOCUMENTS FOR ENTRY

Correction

In the revision of Part 71 appearing at 12 F R. 6200 paragraph (d) was omitted from § 71.508. The paragraph should read as follows:

(d) The provisions of section 466, Tariff Act of 1930, are applicable to any such aircraft of United States registry engaged in trade arriving in the United States, as defined in section 401 (k) Tariff Act of 1930, whether from a contiguous or noncontiguous foreign country, and a notation as to any equipment installed on any such aircraft or repairs made thereto in a foreign country shall be made in the aircraft journey log book, which shall set forth a general description of the equipment or repairs and a statement of the necessity therefor. The aircraft commander, on the first subsequent arrival of the aircraft in the United States, shall exhibit the journey log book to the customs officer at the port of arrival. Except as specified hereafter in this paragraph, such equipment and repairs shall be subject to entry and deposit of duty as prescribed by § 4.14 of this title. Entry and deposit of duty on such equipment or repairs shall not be required if (1) the aircraft belongs to a scheduled air line operating between the United States and foreign countries, (2) the aircraft commander executes and files with the entry of the aircraft an affidavit in the form set forth below, and (3) the collector is satisfied from an inspection of the journey log book and such further investigation as he may deem necessary that the facts with respect to the installation of the equipment and making of repairs were as set forth in such affidavit.

AFFIDAVIT RESPECTING EQUIPMENT PURCHASED FOR OR REPAIRS MADE TO UNITED STATES AIRCRAFT WHILE IN A FOREIGN COUNTRY

District No. _____
Port of _____
Date _____

I, _____, the person in command of aircraft No. _____, flight No. _____, now entering from _____, declare that the installation of equipment and making of repairs noted in the journey log book of such aircraft exhibited herewith were necessary by reason of stress of weather or other casualty occurring since last leaving the United States and were required to secure the safety and airworthiness of the aircraft in accordance with Civil Aeronautics Administration regulations to enable the aircraft to continue its scheduled flight; or that the equipment installed and materials used in making the repairs were of the growth, produce, or manufacture of the United States and the work incident to such installation or repairs was performed by the regular crew of the aircraft or by residents of the United States.

_____
(Aircraft commander)

Declared to under oath before me this ____ day of _____, 19____.

_____
(Title or designation)

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 486]

ALASKA

WITHDRAWAL OF PUBLIC LANDS IN AID OF CONTEMPLATED LEGISLATION

By virtue of the authority contained in the act of June 25, 1910 (36 Stat. 847), as amended by the act of August 24, 1912 (37 Stat. 497, 43 U. S. C. 141–143) and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

The following described land at the extreme eastern end of Homer Spit, at Homer, Alaska, is hereby withdrawn from settlement, location, sale, and entry in aid of contemplated legislation authorizing use of the land for dock and landing sites or other public purposes:

SEWARD MERIDIAN

T. 7 S., R. 13 W., sec. 1, lots 2 and 3.

The area described contains 63.98 acres.

C. GIRARD DAVIDSON,
Acting Secretary of the Interior

JUNE 15, 1948.

[F. R. Doc. 48-5610; Filed, June 23, 1948; 8:46 a. m.]

[Public Land Order 487]

ALASKA

WITHDRAWING PUBLIC LANDS FOR CLASSIFICATION AND EXAMINATION AND IN AID OF PROPOSED LEGISLATION

By virtue of the authority vested in the President by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497 (U. S. C. Title 43, secs. 141–143) and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights, the public lands within the following-described areas in Alaska are hereby temporarily withdrawn from settlement, location, sale or entry, for classification and examination, and in aid of proposed legislation:

KENAI-KASILOF AREA

SEWARD MERIDIAN

Tps. 5 N., Rs. 8 & 9 W.,
T. 4 N., R. 10 W., unsurveyed,
Secs. 4 to 9, inclusive;
Sec. 18.
T. 5 N., R. 10 W.,
T. 6 N., R. 10 W.,
Secs. 30 & 31.

T. 2 N., R. 11 W., unsurveyed,
Secs. 4 to 8, inclusive.
T. 3 N., R. 11 W.,
Sec. 3, unsurveyed;
Secs. 4 to 9, inclusive;
Sec. 10, unsurveyed;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 4 N., R. 11 W., partly unsurveyed.
T. 5 N., R. 11 W.
T. 6 N., R. 11 W.,
Secs. 22 to 36, inclusive.
T. 2 N., R. 12 W.,
Sec. 1, unsurveyed;
Secs. 2, 3, 4, 9 and 10;
Secs. 11 and 12, unsurveyed.
Tps. 3, 4 and 5 N., R. 12 W.
T. 6 N., R. 12 W.,
Secs. 2 and 3;
Secs. 11 to 14, inclusive;
Secs. 23 to 26, inclusive;
Secs. 35 and 36.

The areas described aggregate 160,974 acres, including public and non-public lands.

DUNBAR AREA

FAIRBANKS MERIDIAN

T. 1 S., R. 5 W.,
Sec. 31.
T. 2 S., R. 5 W., unsurveyed,
Secs. 6 and 7.
T. 2 S., R. 6 W.,
Secs. 1 to 4, inclusive,
Secs. 5, 6 and 7, unsurveyed;
Secs. 8 to 18, inclusive;
Secs. 19 to 24, inclusive, unsurveyed;
Secs. 30 and 31.
T. 2 S., R. 7 W.,
Secs. 12, 13, 24, 25, 26 and 34, unsurveyed;
Secs. 35 and 36.
T. 3 S., R. 7 W.,
Secs. 1, 2 and 3;
Secs. 4 and 8, unsurveyed;
Secs. 9 to 12, inclusive;
Secs. 16 and 17;
Sec. 18, unsurveyed;
Secs. 19 and 20.

The areas described aggregate 32,437 acres of public land.

This order shall take precedence over, but shall not modify, the withdrawal for classification for national-monument purposes made by Executive Order No. 7888 of May 16, 1938; the reservation for the Kenai National Moose Range made by Executive Order No. 8979 of December 16, 1941, the withdrawal for administrative site purposes made by Public Land Order No. 390 of August 4, 1947; and the withdrawals for air-navigation site purposes made by the orders of the Secretary of the Interior dated March 17, 1941, and October 10, 1942 (Air-Navigation Site Withdrawal No. 156) and the order of the Secretary of the Interior dated May 26, 1948 (Air-Navigation Site Withdrawal No. 248).

C. GIRARD DAVIDSON,
Acting Secretary of the Interior.

JUNE 16, 1948.

[F. R. Doc. 48-5612; Filed, June 23, 1948; 8:46 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR, Part 6]

EXAMINATION IN HAWAII OF PERSONS TRAVELING BY AIR TO MAINLAND

NOTICE OF PROPOSED RULE MAKING

CROSS REFERENCE: For a proposed amendment of § 6.9, see Department of Justice, Immigration and Naturalization Service, under Proposed Rule Making Section, *infra.*

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR, Part 116]

EXAMINATION IN HAWAII OF PERSONS TRAVELING BY AIR TO THE MAINLAND

NOTICE OF PROPOSED RULE MAKING

JUNE 17, 1948.

Pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C., Sup., 1003) notice is hereby given of the proposed issuance by the Attorney General, the Secretary of the Treasury, the Commissioner of Customs, the Surgeon General, and the Federal Security Administrator of the following rules relating to examination in Hawaii of persons traveling by air to the mainland. In accordance with subsection (b) of the said section 4, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 2-1218, Temporary Federal Office Building X, 19th and East Capitol Streets, N. E., Washington 25, D. C., written data, views, or arguments relative to the proposed rules. Such representations may not be presented orally in any manner. All relevant material received within 20 days following the day of publication of this notice will be considered.

The first sentence of paragraph (f) of § 116.9 of Title 8, Code of Federal Regulations, also designated as § 6.9 of Title 19 and § 71.509 of Title 42, is amended by adding a qualifying phrase, so that it will read as follows: "If the aircraft is to proceed from Hawaii directly to the mainland, the immigration examination of passengers and crew and final determination of their admissibility to the mainland shall be completed before they depart for the mainland except as stated in subparagraph (7) of this paragraph.

Paragraph (f) (7) of § 116.9 of Title 8, Code of Federal Regulations, also designated as § 6.9 of Title 19 and § 71.509 of Title 42, is amended by deleting the first and second sentences and inserting instead a sentence reading as follows: "No passenger shall be brought from Hawaii to the mainland unless found by the immigration authorities in Hawaii to be admissible to the United States (the mainland) except that where a passenger makes a substantial claim to United States citizenship which it is impracticable to determine in Hawaii or where it is impracticable to determine in Hawaii the admissibility of an alien passenger whose status under the immigration laws is dependent on his relationship or intended marriage to a citizen of the United States, and the passenger desires to proceed by air to the mainland, he may be permitted by the immigration officer in charge in Hawaii to do so, subject to inspection and decision as to his status upon arrival in the mainland."

(R. S. 161, 251, sec. 23, 39 Stat. 892, sec. 24, 43 Stat. 166, sec. 7, 44 Stat. 572, sec. 644, 46 Stat. 761, secs. 367, 602, 58 Stat. 706, 712; 5 U. S. C. 22, 19 U. S. C. 66, 1644, 8 U. S. C. 102, 222, 49 U. S. C. 177, 42 U. S. C., 201 note, 270; sec. 1, Reorg. Plan No. V 5 F. R. 2132, 2223, sec. 102, Reorg. Plan No. 3 of 1946, 11 F. R. 7875)

TOM C. CLARK,
Attorney General.
FRANK DOW,
Acting Commissioner of Customs.
E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.
LEONARD A. SCHEELE,
Surgeon General,
Public Health Service.

Approved:

OSCAR R. EWING,
Federal Security Administrator.

[F. R. Doc. 48-5635; Filed, June 23, 1948; 8:47 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 961]

HANDLING OF MILK IN PHILADELPHIA, PA., MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND TO PROPOSED AMENDMENT TO ORDER, AS AMENDED

Pursuant to the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR, Cum. Supp., 900.1 et seq., 10 F. R. 11791, 11 F. R. 7737, 12 F. R. 1159, 4304), notice is hereby given of the issuance of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a marketing agreement and an amendment to the order, as amended, regulating the handling of milk in the Philadelphia, Pennsylvania, marketing area, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement

Act of 1937, as amended (7 U. S. C. 601 et seq.) Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 1844, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the third day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The proposed amendment upon which a hearing was held was submitted by the Inter-State Milk Producers' Cooperative, of Philadelphia, Pennsylvania. The public hearing was held at Philadelphia, Pennsylvania, on June 7, 1948, pursuant to a notice issued on May 21, 1948 (13 F. R. 2824) The only issue presented at the hearing was a proposal to establish floor prices for Class I milk delivered in the remaining months of 1948 as follows: For milk of 4 percent butterfat content delivered at the city, $5.90 per hundredweight during July, August and September, and $6.30 per hundredweight for October, November, and December.

Findings and conclusions. The record indicates that for several years the supply of milk from regular producers has been insufficient to meet the fluid milk needs of the Philadelphia market in the months of shortest milk production. Prospects of another short milk supply in the fall of 1948 are indicated by a lower level of deliveries per day per producer, a reduction in the number of milk cows in states comprising the Philadelphia milkshed, and lower total deliveries, compared with a year ago.

The principal reason for declining milk production appears to be the lag in milk price advances relative to the increasing cost of essential items that dairy farmers must buy. Prices of dairy feed and hay, and wages of farm labor, which are important cost items in milk production, have increased substantially in the past year. Estimated total costs average about 17 percent higher in recent months than a year earlier. Average prices received by producers rose about 9 percent, based on a comparison of January through March 1948 with the same months a year earlier.

Emphasis has been given to a seasonal pattern of milk pricing in the hope of encouraging more producers to produce more fall milk. Announcement of the proposed seasonal changes in prices is expected to give farmers assurance that prices will rise from June through December this year unless substantial changes take place in supply or demand factors. This assurance should encourage producers to continue a program of seasonal adjustment of milk supply.

Although sales of fluid milk in the Philadelphia area during the first four months of 1948 were about two percent under sales in the corresponding months last year, it does not appear that there is a downward trend at this time. Several items of Class I sales show substantial increases. Regular Grade B sales showed the greatest decline but sales of Grade B, Vitamin D milk increased enough to offset more than half of the drop in regular Grade B sales.

General demand factors indicate a continued high level of demand for consumer goods. Wages of factory workers in Philadelphia, as shown in the record, were more favorable in relation to average retail food costs during March than they were at this time last year. Purchases at department stores continue at a high rate.

Both producers and handlers stressed the need for establishing the recommended minimum prices in order to at least maintain the present level of milk supply in this market. They maintained that prices announced and currently being paid in surrounding markets are expected to induce producers to leave the Philadelphia market unless comparable prices are established for this market.

Handlers asked that the proposed amendment to establish floor prices for the last six months of 1948 be modified so that the order price could not rise above the proposed floor prices. Such modification would require the elimination or suspension of the provision in the order which provides that the Class I price shall be $5.96 if the wholesale price of butter in New York averages 82 cents or more per pound during the previous month. The effect of the suspension of this provision would be a possible reduction of 6 cents per hundredweight in the prices established for the months of July, August and September. No evidence in this record indicates justification for reducing the prices during these months. Moreover, in the 12-month period ending with May 1948, at those times when the butter price has averaged above 82 cents (4 times) the butterfat differential has averaged 11 cents, whereas the average butterfat differential for the other 8 months was 9.4 cents. During July, August and September, all milk delivered by producers has been one and two points under 4 percent butterfat. A higher butterfat differential therefore reduces the producer's net price during these months and it also reduces the handler's cost of Class I milk which also averages less than 4 percent butterfat. The present provision in the order tends to offset the reduction in price which is brought about by the higher butterfat differential. It is concluded that the proposed amendment should be adopted in the form in which it was proposed in the notice.

General. (a) The proposed marketing agreement and the order, as amended and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The proposed marketing agreement and the order, as amended and as hereby proposed to be further amended, regulates the handling of milk in the same manner and is applicable only to persons in the respective classes of industrial and commercial activity specified in the said tentatively approved marketing agreement upon which the hearings have been held; and

(c) The prices calculated to give milk produced for sale in the said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8 (e) of the act are not reasonable in view of the price of feed, available supplies of feeds, and other economic conditions which affect market supply and demand for such milk, and the minimum prices specified in the proposed marketing agreement and the order, as amended and as hereby proposed to be further amended, are such as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

Recommended amendment to the order The following amendment to the order, as amended, is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The amendment to a proposed marketing agreement is not repeated because it would be identical with the following:

In § 961.4 (a) (1) delete the proviso *"And provided further,* That the price shall be at least $5.56 for each month until but not including March 1947" and substitute: *"And provided further,* That the price shall be at least $5.90 for each of the months of July, August and September 1948, and at least $6.30 for each of the months of October, November and December, 1948."

Issued at Washington, D. C., this 21st day of June 1948.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 48-5646; Filed, June 23, 1948; 8:49 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR, Part 42]

NONSCHEDULED IRREGULAR AIR CARRIER CERTIFICATION AND OPERATION RULES

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Civil Aeronautics Board has under consideration a revision of Part 42 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted to the Civil Aeronautics Board, attention Safety Bureau, Washington 25, D. C. All communications received by July 23, 1948, will be considered by the Board before taking further action on the proposed rules.

The principal reasons for promulgating the proposed revision are explained in the Explanatory Statement below.

Revised Part 42 is set forth in the proposed rule below. The presently effective regulations are set forth in standard type and the modified or additional requirements proposed are set forth in brackets.

This revision is proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended. (Secs. 205 (a) 601-610, 52 Stat. 984, 1007-1012; 49 U. S. C. 425 (a) 551-560)

Dated June 4, 1948, as Washington, D. C.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

Explanatory statement of Part 42. It is believed that reproduction of Part 42 in its entirety and the inclusion therein of the proposed amendments in brackets, will help in the evaluation of the proposed revision of this part.

The majority of the proposed amendments, with the exception of the requirements for additional flight crew members, have been circulated previously by the Board as Draft Release Number 48-1, dated February 16, 1948. As a result of this circulation, the Board has changed some of the proposed amendments contained in that draft release. The necessity for additional flight crew members was the subject of a public hearing held by the Board in October 1947, and the rules herein proposed to require, under certain conditions, flight engineers, flight radio operators, and flight navigators, are an outgrowth of that hearing.

The standards presently established by Part 42 for the operation of the larger type of transport aircraft do not, in all respects, provide a level of safety comparable with that prescribed for scheduled operations. This revision, therefore, is designed to establish such equivalent standards as the inherent differences in scheduled and nonscheduled operations permit. It is chiefly concerned with the following:

(a) Maintenance, alteration, and repair of the larger aircraft by requiring in all such cases a maintenance manual and the availability of adequate maintenance facilities and personnel,

(b) An adequate training program for pilots which will include a periodic instrument and equipment check, and

(c) Operating limitations for aircraft engaged in passenger operations to insure that these aircraft will be operated at weights substantially the same as those used in scheduled air carrier operations.

For operations conducted in aircraft of less than 10,000 lbs. certificated maximum take-off weight, the proposed amendments are considerably less extensive. The principal requirement restricts such aircraft to visual flight rule operations when passengers are carried, unless the aircraft has specified multiengine performance. Also proposed are certain limitations on the over-water operation of these aircraft.

It is the Board's belief that the proposed rules are the minimum necessary to provide adequately for safety in irregular air carrier operations and that the promulgation of these higher standards will tend to reduce the types of serious accidents which have occurred in irregular air carrier operations.

PART 42—NONSCHEDULED [IRREGULAR] AIR CARRIER CERTIFICATION AND OPERATION RULES

Explanatory statement of Part 42. The Civil Aeronautics Act of 1938 requires that all air carriers have an air carrier operating certificate. Section 610 (a) (4) provides that it shall be unlawful for any person to operate as an air carrier without an air carrier operating certificate, or in violation of the terms of any such certificate.

The term "air carrier" is defined in some detail in the act and those definitions are set forth under § 42.9.

It will be noted that the term "air carrier," in addition to covering the carriage of mail, covers the carriage by aircraft of persons or property as a common carrier for compensation or hire between any of the places described in the definition. The term "common carrier," which is used in the definition of air carrier, may be unfamiliar to many of those engaged in the business of transportation by aircraft. The general meaning of the term is quite simply stated, but its application to specify situations may sometimes be more difficult. For this reason it has been considered by the courts in many cases, and much has been written regarding its application in other fields of transportation.[1] A common carrier is generally defined as one who, as a regular business, undertakes for hire to carry such persons as may apply, or such property as may be offered, so long as capacity is available. The fact that the operation is not scheduled and is not confined to fixed terminals or specific routes, does not prevent the operation from falling within the classification of common carrier, nor is it necessary that rates be published. Perhaps the situation most comparable to many fixed base or charter operators is found in the field of taxicab operations which have been held to be common carriers even where the passenger is entitled to the exclusive use of the vehicle. The information presented to the Board, particularly in its investigation of [irregular] operations which it conducted in 1945, indicated that many, if not most, of the operators often described as fixed base or charter operators fall within the definition of the term "air carrier."

For those who feel that they are not offering a service to the public but are offering a service to a selected few and thus doubt whether the operations come under the rules provided in this part, it may be very helpful if they will refer their problem to the office of the Civil Aeronautics Administration Regional Administrator in their area or write to the Civil Aeronautics Board, Washington 25, D. C., setting forth the character of their operations and requesting an opinion regarding their status. For those who are doubtful, but who wish to eliminate any possibility of operating unlawfully, it is suggested that they file their application for an [irregular] air carrier operating certificate with the Administrator. In the event it is thereafter determined by any such applicant that he is not an air carrier he may withdraw his application without prejudice.

General. The following regulations are prescribed for [irregular] air carrier operations in interstate, overseas, or foreign air transportation.

Sec.

42.0 Air carrier operating certificate.
42.00 Certificate required.
42.01 Issuance.
42.02 Duration.
42.03 Display.
42.04 Inspection.
42.05 Notification of change in location.
42.1 Aircraft requirements.
42.10 General.
42.101 Minimum requirements for aircraft of 10,000 lbs. or more certificated maximum take-off weight carrying passengers.
42.102 All aircraft; IFR passenger operations.
42.103 Aircraft used in operations over water.
42.104 Engine rotation.
42.11 Oxygen apparatus.
42.12 First-aid and emergency equipment.
42.13 Required instruments and equipment.
42.130 Required instruments and equipment for aircraft of 10,000 lbs. or more certificated maximum take-off weight.
42.131 Radio equipment for aircraft of 10,000 lbs. or more certificated maximum take-off weight.
42.14 Cockpit check list.
42.15 Maintenance and inspections.
42.150 Inspections.
42.151 Additional maintenance requirements for aircraft of 10,000 lbs. or more certificated maximum take-off weight.
42.2 Airman rules.
42.20 First pilot.
42.21 Flight time limitations for pilots on aircraft of 10,000 lbs. or more [certificated] maximum take-off weight.
42.210 General.
42.211 For aircraft having a crew of two pilots.
42.212 For aircraft having a crew of three pilots.
42.213 For aircraft having a crew of four pilots.
42.22 Certification and experience.
42.220 Aircraft of less than 10,000 lbs. [certificated] maximum take-off weight.
42.221 Aircraft of 10,000 lbs. or more [certificated] maximum take-off weight.
42.23 Recent flight experience.
42.231 Pilots.
42.232 Flight radio operator.
42.233 Flight engineer.
42.234 Flight navigator.
42.24 Logging flight time.
42.240 Logging instrument flight time.
42.25 Training program for flight crew members serving on aircraft of 10,000 lbs. or more certificated maximum take-off weight.
42.27 Composition of flight crew.
42.271 Second pilot.
42.272 Flight radio operator.
42.273 Flight engineer.
42.274 Flight navigator.
42.28 Cabin attendant.
42.29 Airman records.
42.3 Flight operation rules.
42.30 Flight manifest for aircraft of 10,000 lbs. or more certificated maximum take-off weight.
42.31 Flight plan.
42.32 Serviceability of equipment.
42.33 Fuel supply.
42.34 Weather minimums.
42.340 Dispatch.
42.341 Take-off.
42.342 Landing.
42.35 Flight altitude rules.
42.350 Day VFR passenger operations.

[1] For a more detailed discussion of the whole problem of scheduled and [irregular] air carriers, including discussion of the term "common carriers," see an article by George C. Neal, General Counsel for the Civil Aeronautics Board, entitled "The Status of Non-Scheduled Operations Under the Civil Aeronautics Act of 1938" published in 1940 by Duke University School of Law in Law and Contemporary Problems, Vol. XI No. 3.

Sec.
42.351 Night VFR or IFR operations.
42.36 Icing conditions.
42.37 Instrument approach and landing rules.
42.38 Operating limitations for airplanes certificated under transport category airworthiness requirements.
42.380 Weight limitations.
42.381 Take-off limitations to provide for engine failure.
42.3810 Modified take-off limitations.
42.382 En route limitations.
42.3820 All airplanes; all engines operating.
42.3821 All airplanes; one engine inoperative.
42.3822 Airplanes with four or more engines; two engines inoperative.
42.3823 Special air navigational facilities.
42.383 Landing distance limitations.
42.3830 Modified landing distance limitations.
42.3831 Landing distance at alternate fields.
42.3832 Modified landing distance limitations of alternate fields.
42.384 Definition of effective length of landing area.
42.39 Night and IFR operations.
42.4 Miscellaneous rules.
42.40 Pilots at controls.
42.41 Admission to pilot compartment.
42.42 Operations manual for aircraft of 10,000 lbs. or more certificated maximum take-off weight.
42.43 Records.
42.44 Emergency flights.
42.45 Exemptions.
42.46 Exceptions.
42.9 Definitions.
42.91 Air carrier.
42.92 Irregular air carrier.
42.93 Route.
42.94 Route segment.
42.95 Night.

§ 42.0 *Air carrier operating certificate.*

§ 42.00 *Certificate required.* No person shall operate as an air carrier without an air carrier operating certificate issued by the Administrator, or in violation of the terms of any such certificate.

§ 42.01 *Issuance.* An air carrier operating certificate describing the [irregular] operations authorized and prescribing such operating specifications and limitations as may be reasonably required in the interest of safety will be issued by the Administrator to a properly qualified citizen of the United States who demonstrates that he is capable of conducting the proposed operations in accordance with the applicable requirements hereinafter specified. Application for a certificate, or application for amendment thereof, shall be made in the manner and contain the information prescribed by the Administrator.

§ 42.02 *Duration.* An air carrier operating certificate will continue in effect until canceled, suspended, revoked, or a termination date is set by the Board, after which it shall be surrendered to the Administrator upon request.

§ 42.03 *Display.* The air carrier operating certificate must be kept available at the carrier's principal operations office for inspection by an authorized representative of the Administrator or Board.

§ 42.04 *Inspection.* An authorized representative of the Administrator or the Board shall be permitted at any time and place to make inspections or examinations to determine the operator's compliance with the Civil Air Regulations.

[§ 42.05 *Notification of change in location.* The air carrier shall furnish written notification to the Administrator prior to any change of the location of the air carrier's principal office or of the location of the air carrier's principal operations base.]

§ 42.1 *Aircraft requirements.*

§ 42.10 *General.* Aircraft must be certificated in accordance with the airworthiness requirements of the Civil Air Regulations, and shall be of a type and class which the Administrator finds safe for the service offered.

Irrespective of the basis for certification, all aircraft in passenger service possessing engine(s) rated at more than 600 hp. (each) for maximum continuous operation shall comply with the following; except that, if the Administrator finds that in particular models of existing aircraft literal compliance with specific items of these requirements might be extremely difficult of accomplishment and that such compliance would not contribute materially to the objective sought, he may accept such measures of compliance as he finds will effectively accomplish the basic objectives of these regulations: *Provided,* That compliance with the provisions of this section shall not be required in those instances where the air carrier notifies the Administrator and shows that there exists a lack of equipment or parts necessary for compliance with specific provisions contained in this section. However, when such equipment or parts become available the air carrier shall comply with the pertinent provisions as soon thereafter as practicable. This proviso and the privileges granted thereby shall not be effective after November 1, 1948.

(a) Sections 04b.075 and 04b.3824 (a) of the Civil Air Regulations, as amended September 20, 1946,

(b) At the first major fuselage overhaul subsequent to May 1, 1947, but in any case not later than November 1, 1948, §§ 04b.38210, 04b.38230, 04b.3824 (b) (c) and (d) 04b.38251, and 04b.38252 of the Civil Air Regulations, as amended September 20, 1946.

(c) At the first major wing center-section overhaul subsequent to May 1, 1947, but in any case not later than November 1, 1948, §§ 04b.4113, 04b.4211, 04b.4231 (c) 04b.425 through 04b.4251, 04b.4320, 04b.4321, 04b.433, 04b.434, 04b.441, 04b.470 through 04b.472, 04b.49 through 04b.4902, 04b.491 (a) and (c) and 04b.4910 through 04b.493 of the Civil Air Regulations, as amended September 20, 1946.

[§ 42.101 *Minimum requirements for aircraft of 10,000 lbs. or more certificated maximum take-off weight carrying passengers.* After January 1, 1949, an air carrier shall not use aircraft of 10,000 lbs. or more certificated maximum take-off weight for the carriage of passengers, except in accordance with the following:

[(a) Aircraft certificated as a basic type after June 30, 1942, shall be certificated in accordance with Part 04b, or the transport category requirements of Part 04a, and shall meet the requirements of § 42.38 over each route to be flown.

[(b) Aircraft certificated as a basic type prior to June 30, 1942, shall either:

[(1) Retain their present airworthiness certification status and shall be operated in accordance with such operating limitations as the Administrator finds will provide a safe relation between the performance of the aircraft and the dimensions of airports and terrain; or

[(2) Qualify by showing compliance with either the performance requirements contained in §§ 04a.75–T through 04a.7533–T or the requirements contained in Part 04b, and when so qualified shall meet the requirements of § 42.38 over each route to be flown: *Provided,* That should any model be so qualified, all aircraft of any one operator of the same or related models shall be similarly qualified and operated.

[(c) Aircraft used after December 31, 1953, shall comply with all of the requirements of Part 04b, or the transport category requirements of Part 04a, and shall meet the requirements of § 42.38 over each route to be flown.]

[§ 42.102 *All aircraft—IFR passenger operations.* No aircraft carrying passengers shall be operated under IFR conditions unless it is multiengine and either meets the operating limitations of § 42.38 over each route to be flown or, with one engine inoperative, is capable of a rate of climb of at least 50 feet per minute (as determined by performance data for standard atmospheric conditions) with authorized load at an altitude of at least 1,000 feet above the highest obstruction to flight on the route over which the aircraft is to be flown.]

[§ 42.103 *Aircraft used in operations over water.* Except where the over-water operation consists only of landings or take-offs, land aircraft, either single-engine or those multiengine which cannot comply with the provisions of § 42.102, shall not be operated over water unless they can at all times reach land in the event of an engine failure.]

[§ 42.104 *Engine rotation.* Multiengine aircraft having any engine rated at more than 480 hp. for maximum continuous operation shall be so equipped that the rotation of each such engine can be stopped promptly in flight.]

§ 42.11 *Oxygen apparatus.* Aircraft operated at an altitude exceeding 10,000 feet above sea level continuously for more than 30 minutes, or at an altitude exceeding 12,000 feet above sea level for any length of time, shall be equipped with effective oxygen apparatus and an adequate supply of oxygen available for the use of the operating crew. Such aircraft shall also be equipped with an adequate separate supply of oxygen available for the use of passengers when operated at an altitude exceeding 12,000 feet above sea level.

[§ 42.12 *First-aid and emergency equipment.* (a) Each aircraft shall be equipped with a readily available first-aid kit adequate for the type of operation involved.

[(b) Each aircraft operated over uninhabited terrains shall carry such emergency equipment as the Administrator

finds necessary for the preservation of life for the particular operation involved.

[(c) Except for take-offs, landings, or flights for short distances over water for which the Administrator finds that any of the equipment in subparagraphs (1) (2) or (3) of this paragraph is unnecessary, each aircraft operated over water shall be equipped with:

[(1) Life preservers or flotation devices readily available for each person aboard the aircraft.

[(2) An adequate number of life rafts to accommodate all persons aboard the aircraft.

[(3) A Very pistol or equivalent signal equipment, and

[(4) Such additional emergency equipment as the Administrator finds necessary for the preservation of life for the particular operation involved.]

§ 42.13 *Required instruments and equipment.* The following instruments and equipment for the type of operations specified shall be installed:

(a) *CFR (day)* (1) Air speed indicator.

(2) Sensitive altimeter adjustable for change in barometric pressure.

(3) Magnetic direction indicator.

(4) Tachometer for each engine.

(5) Oil pressure gage for each engine using pressure system.

(6) Temperature gage for each liquid-cooled engine.

(7) Oil temperature gage for each air-cooled engine.

(8) Manifold pressure gage or equivalent, for each altitude engine.

(9) Fuel gage indicating the quantity of fuel in each tank.

(10) Position indicator, if aircraft has retractable landing gear or flaps.

(11) Two-way radio communications system when aircraft is operated in airport traffic zones.

(12) Certificated safety belts for all passengers and members of the crew.

(13) In passenger service, in addition to fire-detecting and fire-extinguishing equipment necessitated as a result of compliance with § 42.10 (b) and (c) a minimum of two hand fire extinguishers of an approved type with an approved extinguishing agent, one of which is installed in the crew compartment, others readily accessible to the passengers; such additional hand fire extinguishers as the Administrator finds necessary for compliance with § 42.10 (b) in cargo service, fire extinguisher(s) adequate for the aircraft.

(14) Source of electrical supply sufficient to operate all radio and electrical equipment.

(15) One spare set of fuses or 3 spare fuses of each magnitude.

(16) First-aid kit adequate for the crew and passengers.

(b) *VFR (night) and IFR.* (1) Instruments and equipment specified in paragraph (a) of this section.

(2) Set of certificated forward and rear position lights.

(3) At least one electric landing light.

(4) Certificated landing flares as follows, if the aircraft is operated beyond a 3-mile radius from the center of the airport of take-off:

Maximum authorized weight of aircraft:	*Flares*
3,500 pounds or less	5 class-3 or 3 class-2.
3,500 pounds to 5,000 pounds.	4 class-2.
Above 5,000 pounds	2 class-1 or 3 class-2 and 1 class-1.

If desired, flare equipment specified for heavier aircraft may be used.

(5) Two-way radio communications system and navigational equipment appropriate to the ground facilities to be used.

(6) Gyroscopic rate-of-turn indicator.

(7) Bank indicator.

(8) Clock with a sweep-second hand.

(9) Generator of adequate capacity.

(10) One set of instrument lights.

(11) One gyro direction indicator.

(12) One outside air temperature gage easily readable from the pilot's position.

(13) One carburetor temperature gage or equivalent approved device.

(14) Power failure warning light or vacuum gage on instrument panel connecting to lines leading to gyroscopic instruments.

[§ 42.130 *Required instruments and equipment for aircraft of 10,000 lbs. or more certificated maximum take-off weight.* (a) Instruments and equipment specified in § 42.13 (a) and (b) except for the radio equipment specified in § 42.13 (a) (11).

[(b) Additional air-speed indicator.

[(c) Electrically heated pitot tube for each air-speed indicator.

[(d) Rate-of-climb indicator.

[(e) Artificial horizon indicator.

[(f) Additional sensitive altimeter.

[(g) Approved carburetor de-icing equipment for each engine.

[(h) Additional source of energy to supply gyroscopic instruments which shall be capable of carrying the required load. Engine-driven pumps, when used, shall be on separate engines and, in lieu of one such pump, an auxiliary power unit may be used. The installation shall be such that the failure of one source of energy will not interfere with the proper functioning of the instrument by means of the other source.]

[§ 42.131 *Radio equipment for aircraft of 10,000 lbs. or more certificated maximum take-off weight.* (a) For day VFR operations over routes on which navigation can be accomplished by visual reference to landmarks, each aircraft shall be equipped with such radio equipment as is necessary to accomplish the following:

[(1) Transmit to at least one ground station from any point on the route and transmit, from a distance of not less than 25 miles, to airport traffic control towers;

[(2) Receive communications at any point on the route;

[(3) By either of two independent means, receive meteorological information at any point on the route and receive instructions from airport traffic control towers.

[(b) For day VFR operations over routes on which navigation cannot be accomplished by visual reference to landmarks, for night VFR, or for IFR operations, each aircraft shall be equipped as specified in paragraphs (a) (1) (2) and (3) of this section, and in addition shall be equipped with such radio equipment as is necessary to receive satisfactorily by either of two independent means radio navigational signals from any radio aid to navigation intended to be used, except that only one marker beacon receiver is necessary. For operations outside the United States each aircraft operated for long distances over water or uninhabited terrain shall be equipped with two independent means of transmitting radio signals to at least one ground station from any point on the route.

[(c) If appropriate, one of the means provided for compliance with paragraph (a) (3) of this section may be employed for compliance with paragraph (a) (2) of this section, and the means provided for compliance with the requirements of paragraph (b) of this section may be employed for compliance with paragraphs (a) (1) and (3) of this section.]

§ 42.14 *Cockpit check list.* (a) The air carrier shall provide for each make and model aircraft a cockpit check list, approved by the Administrator, adapted to each operation in which the aircraft is to be utilized. An approved check list shall be installed in a readily accessible location in the cockpit of each aircraft and shall be appropriately used by the flight crew for each flight.

(b) The cockpit check list shall include procedures prior to starting engines, prior to take-off, prior to landing, and for powerplant emergencies.

[§ 42.15 *Maintenance and inspections.* No person shall operate any aircraft which is not in an airworthy condition. All inspections, repairs, alterations, and maintenance shall be performed in accordance with Part 18 of the Civil Air Regulations and the maintenance manual when such is required by § 42.151 (e).]

[§ 42.150 *Inspections.* (a) Aircraft shall be given a preflight inspection to determine compliance with § 42.32 and, in addition, shall be:

[(1) Maintained and inspected in accordance with a continuous maintenance and inspection system as provided for in Parts 41 or 61 of this chapter and authorized by the terms of the air carrier operating certificate, or

[(2) Given a periodic inspection at least every 100 hours of flight time and an annual inspection at least every 12 calendar months. The annual inspection may be accepted as a periodic inspection.

[(b) A record shall be carried in the aircraft at all times showing that the latest inspections required by paragraph (a) (1) or (2) of this section have been accomplished.

[§ 42.151 *Additional maintenance requirements for aircraft of 10,000 lbs. or more certificated maximum take-off weight*—(a) *Facilities.* Facilities for the proper inspection maintenance, overhaul, and repair of the types of aircraft used shall be maintained by the air carrier, unless arrangements acceptable to the Administrator are made with other persons possessing such facilities.

[(b) *Maintenance personnel.* A staff of qualified mechanics and appropriate supervisory personnel shall be employed by the air carrier and kept available for performing the functions specified by § 42.15, unless arrangements acceptable to the Administrator are made with other agencies having the required personnel. The air carrier shall permit maintenance to be performed only by a person who is competent to perform the maintenance required.

[(c) *Reporting of malfunctioning and defects.* Except where such reporting is made in accordance with the provisions of Parts 41 or 61 of this chapter, an air carrier shall report on a form and in a manner prescribed by the Administrator all malfunctioning and defects occurring during operation or discovered during inspection which cause or may be reasonably expected to cause an unsafe condition in any aircraft, engine, propeller, or appliance. The corrective action taken by the air carrier to prevent recurrence of the malfunctioning or defect shall be indicated on the form. Such report shall be forwarded as soon as possible but not later than 15 days after such malfunctioning or defect occurs or is discovered.

[(d) *Reporting of mechanical irregularities occurring in operation.* Each air carrier shall prescribe in its operations manual a procedure for the submission of written reports by the members of the flight crew for all merchanical irregularities occurring during the operation of the aircraft. The members of the flight crew designated by the air carrier shall submit a written report in accordance with such system to the person responsible for the maintenance of the aircraft. This report shall be submitted at the end of each flight or sooner if the seriousness of the irregularity so warrants. Such report or copy thereof indicating the action taken shall be retained in the aircraft for the information of the next flight crew.

[(e) *Maintenance manual.* The air carrier shall prepare and maintain a maintenance manual for the use and guidance of its personnel. Such manual shall be in form and content acceptable to the Administrator and shall be furnished to all persons designated by the Administrator or Board. A copy of those portions of the maintenance manual pertinent to a particular aircraft shall be carried therein.

[(1) *Contents.* The maintenance manual shall specify inspection and overhaul periods and shall contain instructions for the inspection, servicing, maintenance, and overhaul of the aircraft, aircraft engines, propellers, and appliances operated by the air carrier, including or referring to any pertinent manufacturers' recommended procedures.

[(2) *Changes.* The following rules shall govern changes made in the maintenance manual:

[(i) Any change found necessary by the Administrator or by the air carrier on the basis of operating experience shall be made promptly.

[(ii) Each change in the maintenance manual shall be dated and promptly furnished to all designated holders of the manual.

[(iii) No change shall be made in any overhaul, check, or inspection period without the approval in writing of the Administrator.

[(iv) The air carrier may make changes in the maintenance manual without approval of the Administrator, provided such changes are not inconsistent with Federal regulations, the air carrier operating certificate, safe maintenance practices, and subdivisions (i) and (iii) of this subparagraph.]

§ 42.2 [*Airman*]. *rules.*

§ 42.20 *First pilot*—(a) *Pilot in command.* The first pilot is in command of the aircraft at all times during flight and is responsible for the safety of persons and goods carried, and for the conduct and safety of members of the crew.

(b) *Preflight action.* Prior to commencing a flight the pilot shall familiarize himself with the latest weather reports issued by the United States Weather Bureau pertinent to the flight and with the information necessary for the safe operation of the aircraft en route and on the airports or other landing areas to be used, and determined that the flight can be completed with safety.

(c) *Maps and flight equipment.* The pilot shall have in his possession in the cockpit proper flight and navigational facility maps, including instrument approach procedures when instrument flight is authorized, and such other flight equipment as may be necessary to properly conduct the particular flight proposed.

(d) *Check and control test.* Immediately prior to take-off the pilot shall check the items specified in the check list and in addition shall test the flight controls to the full limit of travel, each engine individually, at run-up r. p. m., check the engine instruments and as many as possible of the flight instruments.

(e) *Emergency decisions.* (1) The first pilot is authorized to follow any course of action which appears necessary in emergency situations which, in the interest of safety, require immediate decision and action. He may in such situations deviate from prescribed methods, procedures, or minimums to the extent required by consideration of safety and shall, when practicable, keep the proper control station fully informed regarding the progress of the flight. When such emergency authority is exercised the pilot shall file a report of such deviation with the Administrator.

(2) In an emergency requiring either the dumping of fuel or a landing at a weight in excess of the authorized landing weight, the first pilot may elect to follow whichever procedure he considers safer.

§ 42.21 *Flight time limitations for pilots on aircraft of 10,000 lbs. or more [certificated] maximum take-off weight.*

§ 42.210 *General.* (a) A pilot may be scheduled to fly 8 hours or less during any 24 consecutive hours withqut a rest period during such 8 hours.

(b) A pilot shall receive 24 hours of rest before being assigned further duty when he has flown in excess of 8 hours during any 24 consecutive hours. Time spent in dead-head transportation to or from duty assignment shall not be considered part of such rest period.

(c) A pilot shall be relieved from all duty for not less than 24 consecutive hours at least once during any 7 consecutive days.

(d) A pilot shall not fly as a crew member in air carrier service more than 100 hours during any 30 consecutive days.

(e) A pilot shall not fly as a crew member in air carrier service more than 1,000 hours in any one calendar year.

(f) A pilot shall not do other commercial flying if his total flying time for any specified period will exceed the limits of that period.

§ 42.211 *For aircraft having a crew of two pilots.* (a) A pilot shall not be scheduled to fly in excess of 8 hours during any 24-hour period unless he is given an intervening rest period at or before the termination of 8 scheduled hours of flight duty. Such rest period shall equal at least twice the number of hours flown since the last preceding rest period and in no case shall such rest period be less than 8 hours. During such rest period the pilot shall be relieved of all duty with the air carrier.

(b) A pilot shall not be on duty for more than 16 hours during any 24 consecutive hours.

§ 42.212 *For aircraft having a crew of three pilots.* (a) A pilot shall not be scheduled for duty on the flight deck in excess of 8 hours in any 24-hour period.

(b) A pilot shall not be scheduled to be aloft for more than 12 hours in any 24-hour period.

(c) A pilot shall not be on duty for more than 18 hours in any 24-hour period.

§ 42.213 *For aircraft having a crew of four pilots.* (a) A pilot shall not be scheduled for duty on the flight deck in excess of 8 hours during any 24-hour period.

(b) A pilot shall not be scheduled to be aloft for more than 16 hours in any 24-hour period.

(c) A pilot shall not be on duty for more than 20 hours during any 24-hour period.

§ 42.22 *Certification and experience.*

§ 42.220 *Aircraft of less than 10,000 lbs. [certificated] maximum take-off weight*—(a) *First pilot.* Any pilot serving as first pilot must hold a valid commercial pilot rating with an aircraft type and class rating for the aircraft in which he is to serve, and for:

(1) Day flight VFR he must have had at least 50 hours of cross-country flight time as pilot or copilot:

(2) Day flight IFR he must possess a currently effective instrument rating and have had a total of at least 500 hours of flight time as pilot or copilot, including 100 hours of cross-country flight;

(3) Night flight VFR or IFR he must possess a currently effective instrument rating and have had a total of at least 500 hours of flight time as pilot or copilot,

including 100 hours of cross-country flight of which 25 hours shall have been during the hours of darkness.

(b) *Second pilot.* Any pilot serving as second pilot in an aircraft requiring more than one pilot must hold for:

(1) VFR flights a valid commercial pilot rating with the appropriate type and class ratings,

(2) IFR flights, in addition to subparagraph (1) of this paragraph, a currently effective instrument rating.

§ 42.221 *Aircraft of 10,000 lbs. or more [certificated] maximum take-off weight*—(a) *First pilot.* Any pilot serving as first pilot must:

(1) Possess a valid commercial pilot rating with an aircraft type and class rating for the aircraft in which he is to serve,

(2) Possess a currently effective instrument rating,

(3) Have logged at least 1,200 hours of flight time of which 500 hours shall have been cross-country,

(4) Have logged at least 100 hours of night flying of which 50 hours shall have been cross-country.

(b) *Second pilot.* Any pilot serving as second pilot must:

(1) Possess a valid commercial pilot rating with an aircraft type and class rating for the aircraft on which he is to serve, and

(2) Possess a currently effective instrument rating.

§ 42.23 *Recent flight experience.*

[§ 42.231 *Pilots.* No person shall serve or be employed to serve as first or second pilot on an aircraft carrying passengers, unless within the preceding 90 days he has made at least 3 take-offs and landings on aircraft of the same make and model with not less than one-half the maximum useful load.

[(a) *Night flight.* No person shall serve or be employed to serve as first or second pilot on an aircraft carrying passengers during the period from one hour after sunset to one hour before sunrise, unless within the preceding 90 days he has made one of the take-offs and landings required above during the period from one hour after sunset to one hour before sunrise.

[(b) *Equipment check.* No person shall serve or be employed to serve as first pilot on an aircraft of 10,000 pounds or more certificated maximum take-off weight, unless within the preceding 6 calendar months he has successfully accomplished an equipment check on aircraft of the same make and model on which he is to serve. Such equipment check shall be given by an authorized representative of the Administrator or a check pilot designated by the Administrator.

[(c) *Instrument check.* No person shall serve or be employed to serve as first pilot on an aircraft of 10,000 pounds or more certificated maximum take-off weight carrying passengers, unless within the preceding 6 calendar months he has successfully accomplished an instrument check demonstrating his ability to pilot and navigate by instruments, to accomplish a standard instrument approach using radio range facilities, and to accomplish an instrument approach using ILS procedures when this facility is to be used. This instrument check shall be given by an authorized representative of the Administrator or a check pilot designated by the Administrator on an aircraft which the air carrier is authorized to use under such VFR or IFR conditions.]

[§ 42.232 *Flight radio operator.* A certificated flight radio operator shall not be assigned to nor perform duties for which he is required to be certificated, unless within the preceding 12 calendar months he has had at least 4 months of satisfactory experience as a radiotelegraph operator and at least 25 hours of experience in the operation of aircraft radio during flight, or until a person designated by the Administrator has checked the airman and has determined that he is (a) familiar with all radio information pertinent to the operations of the air carrier and (b) competent with respect to the operating procedures and radio equipment to be used.]

[§ 42.233 *Flight engineer.* A certificated flight engineer shall not be assigned to nor perform duties for which he is required to be certificated, unless within the preceding 12 calendar months he has had at least 50 hours of experience as a flight engineer on the make and model aircraft on which he is to serve, or until a person designated by the Administrator has checked the airman and determined that he is (a) familiar with all current information and operating procedures relating to the make and model aircraft on which he is to serve and (b) competent with respect to the flight engineer's duties on such aircraft.]

[§ 42.234 *Flight navigator.* A certificated flight navigator shall not be assigned to nor perform duties for which he is required to be certificated, unless within the preceding 12 calendar months he has had at least 50 hours of experience as a flight navigator, or until a person designated by the Administrator has checked the airman and determined that he is (a) familiar with all current navigational information pertaining to the operations of the air carrier and (b) competent with respect to the operating procedures and navigational equipment to be used.]

§ 42.24 *Logging flight time.* (a) A first pilot may log the total flight time elapsing during his command of the aircraft.

(b) A second pilot may log 50 percent of the total flight time, or he may log all the flight time during which he is the sole manipulator of the controls.

§ 42.240 *Logging instrument flight time.* Instrument flight time may be logged as such by the pilot actually manipulating the controls only when the aircraft is flown solely by reference to instruments either under actual or properly simulated instrument conditions.

[§ 42.25 *Training program for flight crew members serving on aircraft of 10,000 lbs. or more certificated maximum take-off weight.* A training program acceptable to the Administrator shall be maintained by the air carrier for all flight crew members utilized in the operation of aircraft of 10,000 lbs. or more certificated maximum take-off weight. This program shall be sufficient to insure that each flight crew member is proficient in his duties and is kept currently informed of all techniques and new developments pertinent to his duties. It shall include instruction in emergency procedures which instruction may be accomplished in a synthetic-type trainer when the Administrator finds that such trainer sufficiently simulates actual operating conditions appropriate to the aircraft on which the airman is to serve.]

[§ 42.27 *Composition of flight crew.* (a) No air carrier shall operate an aircraft with less than the minimum flight crew required for the type of operation and the make and model aircraft as determined by the Administrator in accordance with the standards hereinafter prescribed, and specified in the air carrier operating certificate for each area, route, or route segment.

(b) Where the provisions of this part require for a particular area, route, or route segment the performance of two or more functions for which an airman certificate is necessary, such requirement shall not be satisfied by the performance of multiple functions by any airman over such route or route segment.]

[§ 42.271 *Second pilot.* A second pilot shall be required on aircraft of 10,000 lbs. or more certificated maximum take-off weight, or on smaller aircraft whenever passengers are carried under instrument flight rule conditions, except when the Administrator finds that the simplicity of operation is such that the aircraft can be operated safely by one pilot.]

[§ 42.272 *Flight radio operator* An airman holding a flight radio operator certificate shall be required for flight over any area, route, or route segment over which the Administrator has determined that radiotelegraphy is necessary for communication with ground stations during flight.]

[§ 42.273 *Flight engineer.* After December 1, 1948, an airman holding a flight engineer certificate shall be required on all 4-engine aircraft of more than 80,000 lbs. certificated maximum take-off weight, and on all other 4-engine aircraft of more than 30,000 lbs. certificated maximum take-off weight where the Administrator finds that the design of the aircraft used or the type of operation is such as to require a flight engineer for the safe operation of the aircraft.]

[§ 42.274 *Flight navigator.* An airman holding a flight navigator certificate shall be required for flight over any area, route, or route segment when the Administrator has determined either that celestial navigation is necessary or that other specialized means of navigation necessary for the safe conduct of flight cannot be adequately utilized from the pilot station.]

[§ 42.28 *Cabin attendant.* When passengers are carried in aircraft of 10,000 lbs. or more certificated maximum take-

off weight, a cabin attendant shall be carried as a member of the crew.]

[§ 42.29 *Airman records.* An air carrier shall maintain at its principal operations base current records of every airman utilized as a member of a flight crew. These records shall contain such information concerning the qualifications of each airman as is necessary to show compliance with the appropriate requirements prescribed by the Civil Air Regulations. No air carrier shall utilize any airman as a flight crew member unless he holds a certificate and rating appropriate to the duties to be performed and unless records are maintained for such airman as required herein.]

§ 42.3 *Flight operation rules.*

[§ 42.30 *Flight manifest for aircraft of 10,000 lbs. or more certificated maximum take-off weight.* A flight manifest form shall be prepared and signed for each flight by qualified personnel of the air carrier charged with the duty of supervising the loading of the aircraft and the preparation of the flight manifest form. The form and contents of this manifest shall be in accordance with the instructions contained in the air carrier's operations manual and shall include the names and addresses of the passengers carried, points of departure and destination, the weight of the cargo and passengers, and the distribution of such weight in the aircraft in accordance with the weight control system prescribed in the operations manual. The weight of the passengers may be determined in accordance with a weight control system prescribed by the Administrator. The pilot shall retain the original copy of the manifest and a duplicate copy shall be retained at the principal operations base of the air carrier where it shall be available for inspection for at least one year after completion of the flight. In the event passengers or cargo are discharged or picked up at points other than the principal operations base, the pilot, before starting the flight, shall cause a duplicate copy of the manifest to be mailed to such base, unless otherwise provided for in the carrier's operations manual.]

[§ 42.31 *Flight plan.* No aircraft of 10,000 lbs. or more certificated maximum take-off weight shall take off under VFR conditions, unless a VFR flight plan containing the information required by § 60.203 of this chapter is filed with air traffic control by the air carrier. In the event communications facilities are not readily available, such flight plan shall be filed as soon as practicable after becoming air-borne.]

§ 42.32 *Serviceability of equipment.* Prior to starting any flight, the aircraft, aircraft engine(s) propeller(s) and appliances, including all instruments, must be in proper operating condition. If during the flight any of the above equipment malfunctions or becomes inoperative, it shall be the pilot's responsibility to determine whether the flight can be continued with safety. The pilot shall be responsible for holding or cancelling a flight until satisfactory repairs or replacements can be made.

§ 42.33 *Fuel supply*—(a) *Flight under visual flight rules (VFR)*—(1) *Aircraft of less than 10,000 lbs. [certificated] maximum take-off weight.* A flight shall not be started unless the aircraft carries sufficient fuel and oil, considering the wind and other weather conditions forecast, to fly to the point of intended landing and thereafter for a period of at least 30 minutes at normal cruising consumption.

(2) *Aircraft of 10,000 lbs. or more [certificated] maximum take-off weight.* A flight shall not be started unless the aircraft carries sufficient fuel and oil, considering the wind and other weather conditions forecast, to fly to the point of intended landing and thereafter for a period of at least 45 minutes at normal cruising consumption.

(b) *Flight under instrument flight rules (IFR)* Sufficient fuel and oil, considering the wind and other weather conditions forecast, shall be carried to:

(1) Complete the flight to the point of first intended landing, and thereafter

(2) Fly to the alternate airport, and thereafter

(3) Fly at normal cruising consumption for a period of 45 minutes.

§ 42.34 *Weather minimums.*

§ 42.340 *Dispatch.* No flight shall be dispatched unless the current weather report and forecasts show a trend indicating that the ceiling and visibility at the place of intended landing will be at or above the following minimums at the time of arrival.

(a) *Visual flight [rule] operations (VFR)*—(1) Day. Ceiling 1,000 feet, visibility 1 mile.

(2) *Night.* Ceiling 1,000 feet, visibility 2 miles.

(b) *Instrument flight [rule] operations (IFR)*—(1) *Destination.* The minimums specified in the CAA Flight Information Manual, or as otherwise specified or authorized by the Administrator.

(2) *Alternate.* If the airport is served by a radio directional facility, ceiling 1,000 feet, visibility 3 miles; otherwise a ceiling of 1,500 feet with broken clouds or better, visibility 3 miles.

§ 42.341 *Take-off.* No flight shall be started when the ceiling or visibility at the point of departure is less than:

(a) *Visual flight [rule] operations (VFR)*—(1) *Day.* Ceiling 1,000 feet, visibility 1 mile.

(2) *Night.* Ceiling 1,000 feet, visibility 2 miles.

(b) *Instrument flight [rule] operations (IFR).* The minimums specified in the CAA Flight information Manual, or as otherwise specified or authorized by the Administrator. In no case shall the ceiling be less than 300 feet or the visibility less than one mile.

§ 42.342 *Landing.* No landing shall be made when the ceiling or visibility is less than:

(a) *Visual flight [rule] operations (VFR)*—(1) *Day.* Ceiling 1,000 feet, visibility 1 mile.

(2) *Night.* Ceiling 1,000 feet, visibility 2 miles.

(b) *Instrument flight [rule] operations (IFR)* The minimums as specified in the CAA Flight Information Manual, or as otherwise specified or authorized by the Administrator.

§ 42.35 *Flight altitude rules.* Except during take-off and landing, the flight altitude rules prescribed in §§ 42.350 and 42.351, in addition to the applicable provisions of § 60.107, shall govern air carried operations: *Provided,* That other altitudes may be established by the Administrator for any route or portion thereof where he finds, after considering the character of the terrain being traversed, the quality and quantity of meteorological service, the navigational facilities available, and other flight conditions, that the safe conduct of flight permits or requires such other altitudes.

§ 42.350 *Day VFR passenger operations.* No aircraft engaged in passenger operations shall be flown at an altitude less than 1,000 feet above the surface or less than 1,000 feet from any mountain, hill, or other obstruction to flight.

§ 42.351 *Night VFR or IFR operations.* No aircraft shall be flown at an altitude less than 1,000 feet above the highest obstacle located within a horizontal distance of 5 miles from the center of the course intended to be flown or, in mountainous terrain designated by the Administrator, 2,000 feet above the highest obstacle located within a horizontal distance of 5 miles from the center of the course intended to be flown: *Provided,* That in VFR operations at night in such mountainous areas aircraft may be flown over a lighted civil airway at a minimum altitude of 1,000 feet above such obstacle.

§ 42.36 *Icing conditions.* Aircraft must not be flown into known or probable heavy icing conditions and may be flown into light or medium icing conditions only if the aircraft is equipped with an approved means for de-icing the wings, propellers, and such other parts of the aircraft as are essential to safety.

§ 42.37 *Instrument approach and landing rules*—(a) *Letting - down - through procedure.* The pilot shall use a standard instrument approach procedure for the airport as prescribed in the CAA Flight Information Manual or as otherwise authorized by the Administrator.

(b) *Limitations.* No instrument approach procedure shall be executed or landing made when the latest United States Weather Bureau weather report for that airport indicates the ceiling or visibility to be less than that prescribed by the Administrator for landing at such airport.

[§ 42.38 *Operating-limitations for airplanes certificated under transport category airworthiness requirements.* In operating any airplane transporting passengers which has been certificated under the airworthiness requirements of Parts 04a or 04b, or in accordance with the performance requirements of those parts, the pertinent provisions of §§ 42.380 through 42.384 shall be observed, unless deviations therefrom are specifically authorized by the Administrator on the ground that a peculiarity of the particular circumstances of a par-

ticular case makes a literal observation of the restrictions unnecessary for safety in that case.

[In determining compliance with these provisions, the data obtained in testing the airplane for type certification may be applied, by interpolation or by computation of the effects of changes in the specific variables, to conditions differing from those for which specific tests were made, where such interpolations or computations will give results substantially equalling in accuracy the results of a direct test.]

[§ 42.380 *Weight limitations.* (a) The airplane shall not be operated from any field at an altitude outside of the altitude range for which certificated maximum take-off weights have been determined and set forth in the airplane operating manual and shall not be dispatched to a field of intended destination, or have any field specified as an alternate, which is at an altitude outside the range for which maximum landing weights have been determined and set forth in the airplane operating manual.

[(b) The weight of the airplane at take-off shall not exceed the certificated maximum take-off weight for the altitude of the field from which the take-off is to be made.

[(c) The weight at take-off shall be such that, allowing for normal consumption of fuel and oil in flight to the intended destination, the weight on arrival at the destination will not exceed the certificated maximum landing weight for the altitude of the field of intended destination.]

[§ 42.381 *Take-off limitations to provide for engine failure.* Take-offs shall be made only from such fields, in such directions, and under such weight limitations that the following conditions are fulfilled as shown by the performance data determined under the pertinent airworthiness requirements and set forth in the airplane operating manual.

[(a) From any point on the take-off up to the time of attaining the critical-engine-failure speed set forth in the airplane operating manual, it shall be possible to bring the airplane to a safe stop within the landing area, as shown by the accelerate-and-stop distance data.

[(b) If the critical engine should fail at any instant after the airplane attains the critical-engine-failure speed, it shall be possible to proceed with the take-off and attain a height of 50 feet, as indicated by the take-off path data, before passing over the end of the take-off area. Thereafter it shall be possible to clear all obstacles, either by at least 50 feet vertically, as shown by the take-off path data, or at least 200 feet horizontally within the airport boundaries and 300 feet horizontally after passing beyond such boundaries.

[In determining the allowable deviation of the flight path in order to avoid obstacles, it shall be assumed that the airplane is not banked before reaching a height of 50 feet, as shown by the take-off path data, and that a maximum bank thereafter does not exceed 15°

[(c) In applying requirements paragraphs (a) and (b) of this section, correction shall be made for any gradient of the take-off surface. Take-off data based on still air may be corrected to allow for the effect of a favorable wind which is equal to not more than 50% of the component along the direction of take-off due to the reported wind conditions.]

[§ 42.3810 *Modified take-off limitations.* At the option of the operator consideration of obstacles outside the take-off area as prescribed by § 42.381 (b) and consideration of runway gradient as prescribed by § 42.381 (c) may be omitted: *Provided,* That the distance required to attain a height of 50 feet, as prescribed in § 42.381 (b) does not exceed 85% of the length of the available take-off area.]

[NOTE: The relation between the weight of the airplane and the distance required to attain a height of 50 feet, for various altitudes and wind velocities, is usually available in a convenient form in the airplane operating manual.]

§ 42.382 *En route limitations.*

[§ 42.3820 *All airplanes; all engines operating.* Airplanes shall be dispatched only at such take-off weights that, in proceeding along the intended track with the weight of the airplane progressively reduced by the anticipated consumption of fuel and oil, the rate of climb with all engines operating (as set forth in the airplane operating manual) shall be, in feet per minute, $6V_{s_0}$ at an altitude at least 1,000 feet above the elevation of the highest ground or obstruction within 10 miles of either side of the intended track; except that this requirement need not apply to airplanes certificated under the performance requirements of Part 04a.]

[§ 42.3821 *All airplanes, one engine inoperative.* Airplanes shall be dispatched only at such take-off weights that, in proceeding along the intended track with the weight of the airplane progressively reduced by the anticipated consumption of fuel and oil, the rate of climb with one engine inoperative (as set forth in the airplane operating manual) shall, in fee per minutes, $0.02V_{s_0}^2$ for airplanes having certificated maximum take-off weights up to 40,000 pounds, increasing linearly to $0.04V_{s_0}^2$ at 60,000 pounds, and $0.04V_{s_0}^2$ for certificated maximum take-off weights above 60,000 pounds, at an altitude at least 1,000 feet above the elevation of the highest ground or obstruction within 10 miles of either side of the intended track, except that for airplanes certificated under the performance requirements of Part 04a, the above rate-of-climb value may be $0.02V_{s_0}^2$ irrespective of certificated maximum take-off weight.]

[§ 42.3822 *Airplanes with four or more engines; two engines inoperative.* If, from any point along the track flown, more than 90 minutes at "all engines operating" cruising speed is required to reach an available landing area where the provisions of § 42.383 as modified by § 42.3831 can be met at the airplane weight estimated to exist upon arrival there, an aircraft with four or more engines shall not be dispatched over such track unless its weight is such as to permit a rate of climb with two engines inoperative (as set forth in the airplane operating manual), in feet per minute, of $0.01V_{s_0}$ at an altitude at least 1,000 feet above the elevation of the highest ground or obstruction within 10 miles on either side of the intended track to the landing area, or at 5,000 feet, whichever is higher; except that this requirement need not apply to airplanes certificated under the performance requirements of Part 04a. This specified rate of climb shall correspond with the airplane's weight attained at the moment of failure of the second engine (assumed to occur 90 minutes from time of departure) or, with the weight which may be attained by dumping fuel at the moment of failure of the second engine: *Provided,* That sufficient fuel is retained on board the airplane to reach a point 1,000 feet directly above the landing area.]

[§ 42.3823 *Special air navigational facilities.* Where special air navigational facilities provide for reliable and accurate identification of high ground or obstruction extending for less than 20 miles along the track, the lateral distance of 10 miles specified in §§ 42.3820 through 42.3822 may be reduced to 5 miles.

[§ 42.383 *Landing distance limitations.* (a) Airplanes shall be dispatched only under such conditions that it would be possible, as shown by the still-air landing data determined under the pertinent airworthiness requirements and set forth in the airplane operating manual, at a weight corresponding with the maximum weight expected to exist at the time of arrival at the field of intended destination and under standard air conditions for the altitude of such field, to bring the airplane to rest from a point 50 feet directly above the intersection of the obstruction clearance line (as defined in § 42.384) and the landing surface within a total distance not in excess of 60% of the effective length of the landing area (as defined in § 42.384) most suitable for landing in still air.

[(b) For every possible condition of wind velocity and direction and the corresponding landing direction required at the field of intended destination by the ground handling characteristics of the airplane type involved, the ratio of landing distance to effective length of landing area shall not be greater than that specified in paragraph (a) of this section, after allowing for the effect on the landing path and roll of not more than 50% of the favorable wind component due to a particular wind condition.

[(c) If requirement of paragraph (a) of this section can be met but requirement of paragraph (b) of this section cannot be fully met at a field of intended destination, a flight to such field may be dispatched under the following or more conservative conditions:

[(1) At least one suitable alternate field shall be designated in the flight plan at which requirements of paragraphs (a) and (b) of this section, as modified by § 42.3831 and the appropriate requirements of §§ 42.33 and 42.34, are met.

[(2) If requirement of paragraph (b) of this section cannot be met for the wind conditions existing at the time of

arrival, the airplane shall proceed to the alternate.]

[§ 42.3830 *Modified landing distance limitations.* At the option of the operator, consideration of effective length of runway area and all possible wind conditions as prescribed by §§ 42.383 and 42.384 may be omitted: *Provided,* That the distance to bring the airplane to rest from a point 50 feet directly above the beginning of usable landing area, as prescribed in § 42.383 (a) shall not be in excess of 50% of the length of the usable landing area. The length of the longest available runway on the airport may be used as the length of the usable landing area when applying the requirement of this section.]

[NOTE: The relation between the weight of the airplane and the distance necessary to bring the airplane to rest, for various altitudes and wind velocities, is usually available in a convenient form in the airplane operating manual.]

[§ 42.3831 *Landing distance at alternate fields.* The condition of § 42.383 shall apply with respect to alternate fields specified in the flight plan, except that in the case of alternate fields the landing distance as defined in that section shall not exceed 70% of the effective length of the landing area.]

[§ 42.3832 *Modified landing distance limitations of alternate fields.* At his option the operator may, in lieu of the requirements of § 42.3831, apply the requirements of § 42.3830, except that in case of alternate fields the landing distance as defined in § 42.3830 shall not exceed 60% of the length of the usable landing area. (See note under § 42.3830.)]

[§ 42.384 *Definition of effective length of landing area.* The effective length of the landing area shall be the distance from the point where the obstruction clearance line, as defined below, intersects the landing surface to the far end of the landing area.

[The obstruction clearance line is a line drawn tangent to or clearing all obstructions showing in a profile of the approach area, as defined below. The obstruction clearance line is further limited by having a slope to the horizontal of 1/20 as it approaches the landing area.

[The approach area, as used in this section, shall be an area symmetrical about a center line coinciding with and prolonging the center line of the runway, except that where there is a multiplicity of parallel runways or a large area continuously available for landing the center line of the approach area shall coincide with the most probable landing path for instrument approaches. The approach area shall be considered as extending longitudinally from the landing area out to the most remote obstacle touched by the obstruction clearance line, assuming the center line of approach area in plan view to be straight for at least 1,500 feet from the intersection of the obstruction clerance line with the landing surface, and thereafter continuing in a path consistent with the instrument approach procedures for the runway in question or, where such procedures are not specified, consistent with turns of at least 4,000 feet in radius; and as extending laterally to a distance of 200 feet on either side of its center line at the point of intersection of the obstruction clearance line with the landing surface, with this distance increasing uniformly to 500 feet on either side of the center line of the area at a longitudinal distance of 1,500 feet from the intersection of the obstruction clearance line with the landing surface, and maintaining a distance of 500 feet from the center line thereafter.]

[§ 42.39 *Night and IFR operations*—(a) *Night operations.* No air carrier shall use an airport for the take-off or landing of an aircraft during the period from one hour after sunset to one hour before sunrise, unless such airport is adequately lighted.

[(b) *Instrument flight rule operations.* Instrument flight rule operations shall be conducted only over routes served by radio ranges or equivalent facilities, unless the Administrator has found that instrument navigation can be conducted by the use of radio direction finding equipment installed in the aircraft and has approved or otherwise authorized such operation in the air carrier operating certificate.]

§ 42.4 *Miscellaneous rules.*

§ 42.40 *Pilots at controls.* In the case of aircraft requiring two or more pilots, two pilots must remain at the controls at all times while landing, taking off, and while the aircraft is en route, except when the absence of one is necessary in connection with his regular duties or when he is replaced by a person authorized under the provisions of § 42.41.

§ 42.41 *Admission to pilot compartment.* In aircraft having a separate pilot compartment, no person other than a crew member, a check pilot, an inspector of the Administrator or a representative of the Board in pursuance of official duty, or a person whose admission is approved by the first pilot may be admitted to the pilot compartment. In the latter case, the first pilot must remain at the controls.

§ 42.42 *Operations manual for aircraft of 10,000 lbs. or more certificated maximum take-off weight.* [(a) Each carrier operating aircraft of 10,000 lbs. or more certificated maximum take-off weight shall prepare and maintain an operations manual for the use and guidance of its flight and ground personnel. This manual shall be in form and content acceptable to the Administrator and shall set forth the duties and responsibilities of all persons engaged in the flight operations of the air carrier. Such persons shall perform their duties and responsibilities in acordance with the operations manual.]

[(b). A copy of the operations manual shall be furnished to all persons designated by the Administrator or Board. A complete and current copy the the operations. manual shall be] kept at the principal operations base [of the air carrier and a copy pertinent to the aircraft shall be carried at all times.]

[(c) Changes shall be made in the operations manual as follows:

[(1) Any change found necessary by the Administrator or the air carrier on the basis of operating experience shall be made promptly.

[(2) Each change in the operations manual shall be dated and promptly furnished to all designated holders of the manual.

[(3) The air carrier may make changes in the operations manual without approval by the Administrator, provided such changes are not inconsistent with Federal regulations, the air carrier operating certificate, safe operational practices, and changes previously required by the Administrator.]

§ 42.43 *Records.* Each carrier shall keep at the operating base the following current records with respect to all aircraft, aircraft engines, propellers, and, where practicable, appliances used in air transportation

(a) Total time and service,
(b) Time since last overhaul,
(c) Time since last inspection, and
(d) Mechanical failures.

§ 42.44 *Emergency flights.* In the case of emergencies necessitating the transportation of persons or medical supplies for the protection of life or property, the rules contained herein regarding type of aircraft, equipment, and weather minimums to be observed will not be applicable: *Provided,* That within 48 hours after any such flight returns to its base the air carrier shall file a report with the Administrator setting forth the conditions under which the flight was made, the necessity therefor, and giving the names and addresses of the crew and passengers.

§ 42.45 *Exemptions.* An air carrier engaged in [irregular] air carrier operations on or before August 1, 1946, may continue to engage in such [irregular] air carrier operations without an air carrier operating certificate until such time as the Administrator shall pass upon the application for such certificate if prior to September 15, 1946 he has filed with the Administrator an application for such certificate.

[NOTE: It is proposed to rescind this obsolete section.]

§ 42.46 *Exceptions.* Whenever upon investigation the Administrator finds that the general standards of safety required for air carrier operations require or permit a deviation from any specific requirement of this part for a particular operation or a class of operations for which an application for an air carrier operating certificate has been made, he may issue an air carrier operating certificate with appropriate changes. The administrator shall promptly notify the Board of any deviations included in the air carrier operating certificate and the reasons therefor.

§ 42.9 *Definitions.*

[§ 42.91 *Air carrier* Air carrier means any citizen of the United States who undertakes, whether directly or indirectly, or by a lease, or by any other arrangement, the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage

of mail by aircraft in commerce, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation, between any of the following places: a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; places in the same State of the United States through the airspace over any place outside thereof; places in the same Territory or possession of the United States, or the District of Columbia; a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States, and a place in any other Territory or possession of the United States; a place in the United States and any place outside thereof.]

[§ 42.92 *Irregular air carrier.* Irregular air carrier includes any air carrier subject to the provisions of § 292.1 of the Economic Regulations.]

[§ 42.93 *Route.* A path through the navigable airspace identified by an area on the surface of the earth, the boundaries of which are designated or approved by the Administrator.]

[§ 42.94 *Route segment.* Any part of a route the limitations of which are determined by their relation to, but do not necessarily coincide with, different navigable fixes.]

[§ 42.95 *Night.* The time between the ending of evening twilight and the beginning of morning twilight as published in the Nautical Almanac converted to local time for the locality concerned.]

[NOTE: The Nautical Almanac containing the ending of evening twilight and the beginning of morning twilight tables may be obtained from the Superintendent of Documents, Government Printing Office, Washington 25, D. C. Information is also available concerning such tables in the offices of the Civil Aeronautics Administration or the United States Weather Bureau.

[The reporting and record-keeping requirements contained in this proposed amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.]

[F. R. Doc. 48-5651; Filed, June 23, 1948; 9:03 a. m.]

[14 CFR, Part 45]

COMMERCIAL OPERATOR CERTIFICATE

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Civil Aeronautics Board has under consideration the adoption of a new Part 45 establishing operating and certification requirements for all persons, other than air carriers, engaged in the carriage by air of persons or cargo for compensation or hire.

Interested persons may participate in the making of the proposed regulation by submitting such written data, views, or arguments as they may desire. Communications should be submitted to the Civil Aeronautics Board, attention Safety Bureau, Washington 25, D. C. All communications received by July 23, 1948, will be considered by the Board before taking further action on the proposed rule.

The principal reasons for promulgating the proposed new part are explained in the Explanatory Statement.

The proposed new Part 45 is set forth in the proposed rule below.

This new part is proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended, particularly sections 601 (a) (6) and 607 (3) thereof. (Secs. 205 (a), 601-610, 52 Stat. 984, 1007-1012; 49 U. S. C. 425 (a), 551-560)

Dated: June 4, 1948.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

Explanatory statement of Part 45. Prior to the termination of World War II, only a limited number of operators were engaged in large-scale non-air carrier carriage of passengers and cargo for compensation or hire. Moreover, the aircraft operated, with but few exceptions, were small single-engine airplanes of limited capacity and range. Since the end of the war, with the release by the armed forces of large aircraft purchasable with limited capital, there has been a significant change in the pattern of contract passenger and cargo operations.

For example, many alleged contract operations are being conducted between the United States and foreign points. Such operations are believed to have resulted from the withdrawal by the Board of authority for common carriage of passengers to foreign points, the necessity of providing reasonable regular service in order to sustain the operation, and the requirement that nonscheduled cargo carriers serve only those established points authorized by the Board. According to the best estimates available to the Board, there are at least twenty-four carriers, including several irregular air carriers and cargo carriers registered with the Board, presently providing contract service to foreign points. Such carriers have available for use approximately 56 large commercial-type aircraft (including 20 DC-4's) as compared to 181 such aircraft being employed by certificated United States carriers in scheduled overseas and foreign air transportation.

In addition to the contract operations of certificated carriers and noncertificated carriers registered with the Board, it is known that several carriers presently are operating pursuant to contract who have never registered with the Board. Some of such carriers formerly held out their services as common carriers but, due to a desire to avoid the additional requirements imposed upon noncertificated carriers by the revised § 292.1 of the Board's Economic Regulations, have failed to register with the Board and are now alleging the right to engage in contract carriage only. New carriers are constantly entering the field of carriage by air pursuant to contract.

It is noteworthy that for the period September 10, 1947, to December 31, 1947, the State Department processed applications for landing rights in foreign countries for approximately 85 passenger flights originating in or destined to the United States and conducted by carriers not authorized to engage as common carriers in the foreign air transportation of persons. Such flights were alleged to have been conducted pursuant to contract. Since landing rights may be negotiated directly with many foreign countries without the necessity of proceeding through the State Department, it is probable that many more such flights were operated.

Obviously, contract operations in these large aircraft do not differ materially in their safety aspects from common carrier operations. It may be significant that of the ten fatal accidents in aircraft over 10,000 lbs. maximum certificated take-off weight operated by non-certificated carriers during 1947, fully half occurred in aircraft which were alleged to be in contract carriage.

At the present time, non-air carrier operations in these large aircraft are governed by the provisions of Part 43 of this chapter, which are the rules generally applicable to personal aircraft and are, therefore, considerably less specific in the standards imposed. This is a situation which is bound to be deceptive to the average person utilizing the services of such an operator. It is a situation which the Board feels obligated to correct, especially in view of the fact that analysis of accidents involving such aircraft clearly reveals that the imposition of higher safety standards with adequate administrative means of enforcement of such standards can make a positive contribution to air safety.

The raising of safety standards is also important for commercial operators using aircraft under 10,000 lbs. maximum take-off weight. In this field in the year 1947, there were over 724 accidents of which 84 were fatal. By comparison there were 47 accidents in noncertificated air carrier operations including Alaskan operations of which 10 were fatal. It is clear, therefore, that from the standpoint of the public interest the field of non-air carrier commercial carriage is one of prime importance. Analysis of these accidents indicates that enforced compliance with the standards established for comparable air carrier operations would tend to reduce the risk of similar accidents in the future. While the standards established for the smaller aircraft in Part 42 are not identical with those imposed on aircraft of 10,000 lbs. or more certificated maximum take-off weight, they provide a higher level of safety than is now required for non-air carrier commercial operations and one which is believed adequate for such aircraft and operations which may be conducted in them.

It is the desire of the Board, in the rules proposed below, to establish safety standards for operations involving the non-air carrier carriage of persons for compensation or hire at the same level as those which will govern irregular air carrier operations. These in turn are as similar to the scheduled air carrier

rules for aircraft of 10,000 lbs. or more certificated maximum take-off weight as the inherent differences in the nature of the operations will permit. The proposed rules will establish new standards respecting aircraft operation, equipment, maintennace, and airman competency for non-air carrier operations conducted for compensation or hire.

Considerable additional requirements are proposed for aircraft of 10,000 lbs. or more certificated maximum take-off weight subject to the provisions of this part. However, in the case of aircraft of lesser weight the proposed additional requirements are not so extensive and are chiefly as follows:

(a) Single-engine aircraft and those multiengine aircraft not having single-engine performance will be restricted to visual flight rule operations. Also, such land aircraft shall not be operated over water unless they can reach land in the event of engine failure, except where the over-water operations consist only of landings and take-offs.

(b) The pilot of an aircraft in day VFR operations will be required to have had 50 hours of previous cross-country flight. In the case of night VFR operations the requirement will be 500 hours of flight experience including 100 hours of cross-country flight of which 25 hours shall have been made at night. In addition, the pilot must be the holder of an effective instrument rating.

(c) Take-off weather minimums for VFR flights will be: Day—ceiling 1,000 feet, visibility 1 mile; night—ceiling 1,000 feet, visibility 2 miles.

(d) Each commercial operator will be required to keep at his operating base adequate records with respect to operation and maintenance of all aircraft, aircraft engines, propellers, and, where practicable, appliances used in air commerce.

It is the Board's belief that the rules proposed are the minimum necessary to provide adequately for safety in air commerce. In this connection the Board is also of the opinion that it is necessary in the interest of the public to require that any person who desires to engage in noncommon carrier carriage of persons or property for compensation or hire, using aircraft of 10,000 lbs. or more certificated maximum take-off weight, hold an effective air agency certificate to be designated a "commercial operator certificate."

PART 45—COMMERCIAL OPERATOR CERTIFICATION AND OPERATION RULES

Sec.
45.1 Applicability of part.
45.2 Certificate required.
45.3 Certification requirements.
45.4 Operating rules.
45.5 Deviations.

§ 45.1 *Applicability of part.* Except where operations are conducted under the provisions of an air carrier operating certificate issued by the Administrator, the provisions of this part shall be applicable to citizens of the United States engaged in the carriage by air of goods or persons for compensation or hire. For the purpose of this part, student instruction, banner towing, crop dusting, seeding, and similar operations shall not be considered as the carriage of goods for compensation or hire.[1]

§ 45.2 *Certificate required.* No person subject to the provisions of this part shall engage in air commerce using aircraft of 10,000 lbs. or more certificated maximum take-off weight until he has obtained from the Administrator a commercial operator certificate: *Provided,* That any such person may engage in operations subject to the provisions of this part without a commercial operator certificate until such time as the Administrator shall pass on his application for such certificate, but in no case later than January 1, 1949, if he (a) is engaged in such operations on the effective date of this part and (b) has filed with the Administrator an application for such certificate prior to the effective date of this part.

§ 45.3 *Certification requirements.* A commercial operator certificate shall be issued to an applicant subject to the provisions of this part who complies with the appropriate certification requirements of Part 42 of this chapter, as heretofore or hereafter amended.

§ 45.4 *Operating rules.* Persons subject to the provisions of this part shall comply with the appropriate operating requirements of Part 42, as heretofore or hereafter amended. For the purpose of this section, operating requirements shall include all requirements of Part 42 other than those referred to in § 45.3.

§ 45.5 *Deviations.* The provisions of § 42.46 of this chapter shall be fully applicable to operations under this part.

[F. R. Doc. 48-5659; Filed, June 23, 1948; 9:03 a. m.]

FEDERAL SECURITY AGENCY

Public Health Service

[42 CFR, Part 71]

EXAMINATION IN HAWAII OF PERSONS TRAVELING BY AIR TO MAINLAND

NOTICE OF PROPOSED RULE MAKING

CROSS REFERENCE: For a proposed amendment of § 71.509, see Department of Justice, Immigration and Naturalization Service, under Proposed Rule Making Section, *infra.*

NOTICES

DEPARTMENT OF STATE

[DA 66]

CERTAIN PROPERTY OF FORMER GERMAN GOVERNMENT

RELINQUISHMENT OF CONTROL

By virtue of the authority vested in me by Executive Order 9760 (11 F. R. 7999) as amended by Executive Order 9788 (11 F. R. 11981) and pursuant to law (R. S. 161, 5 U. S. C. 22), the undersigned, after appropriate investigation and consultation, deeming it necessary in the national interest:

Hereby waives any authority which he may have to exercise control and supervision over certain property consisting of funds deposited as checking or commercial accounts at the Marine Midland Trust Company of New York, 17 Battery Place, New York 4, New York; First National Bank in St. Louis, 323 N. Broadway, St. Louis 2, Missouri; Whitney National Bank of New Orleans, New Orleans, Louisiana; The First National Bank of Boston, 67 Milk Street, Boston, Massachusetts; Bank of America, N. T. & S. A., 660 South Spring Street, Los Angeles 14, California; Crookers First National Bank of San Francisco, One Montgomery Street, San Francisco 20, California; The Cleveland Trust Company, Cleveland, Ohio, Central-Penn National Bank, Philadelphia, Pennsylvania, and The Riggs National Bank of Washington, D. C., in the name of various diplomatic and consular establishments of the former German Government formerly situated at the cities wherein these banks are located. The custody of this property is relinquished to the Office of Alien Property of the Department of Justice, and a notification in writing to the Office of Alien Property of this action is hereby authorized.

This release shall become effective on the date of publication in the FEDERAL REGISTER of a vesting order issued by the Office of Alien Property covering the property described herein.

In connection herewith reference is made to the antepenultimate paragraph of Department of State Public Notice D. A. 170 of July 26, 1946 (General Supervisory Order) (11 F. R. 8372)

Approved: June 21, 1948.

[SEAL] G. C. MARSHALL,
Secretary of State.

[F. R. Doc. 48-5630; Filed, June 23, 1948; 8:47 a. m.]

[1] Under circumstances where it is doubtful whether the operations are for "compensation or hire," the test to be applied is whether the air carriage is merely incidental to the operator's other business or is, in and of itself, a major enterprise for profit.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

NOTICE FOR FILING OBJECTIONS TO PUBLIC LAND ORDER 486,[1] WITHDRAWAL OF PUBLIC LANDS IN AID OF CONTEMPLATED LEGISLATION

For a period of 60 days from the date of publication of the above-entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

C. GIRARD DAVIDSON,
Acting Secretary of the Interior.

JUNE 15, 1948.

[F. R. Doc. 48-5611; Filed, June 23, 1948; 8:46 a. m.]

ALASKA

NOTICE FOR FILING OBJECTIONS TO PUBLIC LAND ORDER 487 WITHDRAWING PUBLIC LANDS FOR CLASSIFICATION AND EXAMINATION AND IN AID OF PROPOSED LEGISLATION

For a period of 60 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

C. GIRARD DAVIDSON,
Acting Secretary of the Interior

JUNE 16, 1948.

[F. R. Doc. 48-5613; Filed, June 23, 1948; 8:49 a m.]

[1] See F. R. Doc. 48-5610, Title 43, Chapter I, Appendix, *supra*.

[2] See F. R. Doc. 48-5612, Title 43, Chapter I, Appendix, *supra*

FEDERAL POWER COMMISSION

[Docket No. G-1020]

KENTUCKY WEST VIRGINIA GAS CO.

NOTICE OF ORDER ALLOWING RATE SCHEDULES AND SUPPLEMENTS THERETO TO TAKE EFFECT AND TERMINATING PROCEEDING

JUNE 18, 1948.

Notice is hereby given that, on June 17, 1948, the Federal Power Commission issued its order entered June 17, 1948, allowing Kentucky West Virginia Gas Company Rate Schedules FPC Nos. 8 and 9, as amended by Supplement No. 1 thereto, to take effect as of December 1, 1947; and terminating proceedings in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 48-5616; Filed, June 23, 1948; 8:45 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-1841]

APPALACHIAN ELECTRIC POWER CO.

ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 18th day of June A. D. 1948.

Appalachian Electric Power Company ("Appalachian") a public utility operating subsidiary of American Gas and Electric Company, a registered holding company, having filed an application pursuant to section 10 of the Public Utility Holding Company Act of 1935 regarding the following proposed transactions:

Appalachian proposes to form and acquire stock of Central Appalachian Coal Company ("Coal Company") a new corporation to be organized under the laws of the State of West Virginia for the purpose of developing and operating a coal mine and for transporting, buying and selling coal in the interests of Appalachian and the other power companies forming a part of the Central System of American Gas and Electric Company.

The new company, which is to be a wholly owned subsidiary, will have an authorized capital stock of 60,000 shares, par value $100 per share, of which 40,000 shares will be issued to Appalachian prior to March 1, 1950 for a cash consideration of $4,000,000. The cash obtained by Coal Company will be used to purchase mining and barging equipment, to construct surface facilities and to develop and operate the mine.

It is stated that the development and operation of such mine is necessary to provide an adequate fuel supply for Appalachian's needs and that based upon present prices of coal the development of the mine will result in substantial savings in fuel costs. The price of coal per ton will be fixed at an amount which will enable Coal Company to earn an estimated profit of $294,000 a year during the life of the mine. Such income would be returned to Appalachian as dividends thereby enabling that company to earn a 6% return on its investment. Should the annual income of Coal Company exceed 6% then Appalachian will cause Coal Company to adjust its charges per ton of coal to the extent necessary to bring such return down to 6%.

Said application having been filed on May 19, 1948 and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act and the Commission not having received a request for hearing thereon within the period specified in said notice or otherwise and not having ordered a hearing thereon; and

Applicants having requested that the Commission's order granting the application become effective forthwith, and the Commission deeming it appropriate to grant such request; and

The Commission finding with respect to said application that the requirements of the applicable provisions of the act and rules thereunder are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers that said application be granted;

It is hereby ordered, Pursuant to Rule U-23 and the applicable provisions of said act and subject to the terms and conditions prescribed in Rule U-24 that the aforesaid application be, and the same hereby is, granted, effective forthwith. This order, however, should not be construed as precluding further action by any proper regulatory authority with respect to the rate of return which may be earned by Appalachian on its investment in Coal Company.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 48-5621; Filed, June 23, 1948; 8:46 a. m.]

[File Nos. 70-1859, 70-1860]

NORTHERN STATES POWER CO. (MINN.) AND NORTHERN STATES POWER CO. (WIS.)

NOTICE OF FILING AND ORDER OF CONSOLIDATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 17th day of June A. D. 1948.

In the matter of Northern States Power Company, a Minnesota corporation, File No. 70-1860; Northern States Power Company, a Wisconsin corporation, File No. 70-1859.

Notice is hereby given that Northern States Power Company, a Minnesota corporation ("the Minnesota company") an electric and gas utility company and a registered holding company under the Public Utility Holding Company Act of 1935, which company is also a subsidiary of Northern States Power Company, a Delaware corporation and a registered holding company, has filed an application-declaration pursuant to said act with respect to the issuance and sale of an additional amount of its Bonds and Preferred Stock and has designated sections 6, 7, 9 and 10 of the act and Rules U-23, U-24 and U-50 promulgated there-

under as applicable to its proposed transactions; and that

Northern States Power Company, a Wisconsin corporation ("the Wisconsin company") an electric and gas utility company and a subsidiary of the Minnesota company, has filed an application pursuant to said act with respect to the issuance and sale of an additional amount of its Common Stock and has designated section 6 (b) of the act and Rules U-23, U-24 and U-43 thereunder as applicable to its proposed transaction; and

It appearing to the Commission that the foregoing matters, docketed under file Nos. 70-1860 and 70-1859 respectively, involve common questions of law and fact, and that they may properly be consolidated for joint determination; and it further appearing to the Commission that a notice of filing of said application-declaration and said application and of the consolidation of these proceedings may appropriately be issued pursuant to Rule U-23;

It is therefore ordered, That the said proceedings be and the same are hereby consolidated, without prejudice, however, to the right of the Commission to separate, either for hearing if one is held, in whole or in part, or for disposition, in whole or in part, any of the matters which may arise in these proceedings and to take such other action as may appear conducive to an orderly and prompt disposition of the matters involved; and

Notice is further given that any interested person may not later than June 29, 1948 at 5:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on such matters or either of them, stating the reasons for such request, the nature of his interest and the issues of fact or law raised by said filings which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street, NW., Washington 25, D. C. At any time after June 29, 1948 said application-declaration and said application may be granted as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said application-declaration of the Minnesota company and to said application of the Wisconsin company, which are on file with this Commission, for a statement of the transactions therein proposed, which are summarized as follows:

The Minnesota company proposes to issue and sell $10,000,000 principal amount of its First Mortgage Bonds, Series due July 1, 1978 ("New Bonds") the interest rate to be a multiple of ⅛ of 1% and the price (exclusive of accrued interest) to be not less than 100% nor more than 102¾% of the principal amount, the exact rate and price to be determined by competitive bidding. Such bonds are to be secured equally and ratably with the presently outstanding $5,000,000 principal amount of 2¾% First Mortgage Bonds, Series due February 1, 1974, and $75,000,000 principal amount of 2¾% First Mortgage Bonds, Series due October 1, 1975, by a Supplemental Trust Indenture from Northern States Power Company (Minnesota) to Harris Trust and Savings Bank, Trustee, dated July 1, 1948 (being supplemental to Trust Indenture dated February 1, 1947) The Minnesota company further proposes to issue and sell 200,000 shares of its Cumulative Preferred Stock, $_____ Series without par value ("New Preferred Stock") the annual dividend rate to be a multiple of 10 cents, and the price to be not less than $100 per share nor more than $102.75 per share plus accrued dividends from July 1, 1948 to date of delivery, the exact rate and price to be determined by competitive bidding.

The redemption prices of the New Bonds and the New Preferred Stock will be determined by the company in accordance with formulas set forth in the application-declaration.

The proceeds to be derived from the sale of said securities, less expenses estimated at $170,000, will be added to the general funds of the Minnesota company and used to provide part of the new capital required for the 1947–1951 construction program of the company and its subsidiary companies. With the addition of such proceeds, it is expected that the company's general funds available during the year 1948 will provide the cash required by it (a) for its expenditures under the construction program for the balance of the year 1948; (b) to pay the bank loans in the principal amount of $12,000,000 which are due October 29, 1948 and which were made in October, 1947 to supply the then current needs of the 1947–1951 construction program; and (c) to purchase at par, from time to time during the balance of the year 1948 not to exceed 60,000 additional shares of Common Stock, of the par value of $100 each, of the company's subsidiary Northern States Power Company (Wisconsin) all of whose presently outstanding Common Stock is owned by the Minnesota company.

The Wisconsin company proposes to issue and sell at par, from time to time during the balance of the year 1948, to its parent, the Minnesota company, not to exceed 60,000 additional shares of its Common Stock of the par value of $100 per share (aggregate par value $6,000,000) and to add the proceeds from the sale of said stock, less expenses estimated at $24,000, to its general funds, to be expended in carrying out its portion of the construction program for the balance of the year 1948 and to pay its bank loan in the principal amount of $1,000,000 which is due on November 5, 1948 and which was made in May, 1948 to supply the then current needs of its portion of the 1947–1951 construction program.

The Minnesota company has filed a petition with the Public Service Commission of the State of North Dakota for an order of approval relating to its New Bonds and New Preferred Stock; and the Wisconsin company has made application to the Public Service Commission of the State of Wisconsin for a certificate of authority relating to its further issuance of Common Stock.

It is requested that the 10-day notice period provided for by subdivision (b) of Rule U-50 be reduced by order of this Commission to not less than 6 days, and that the Commission's order or orders become effective not later than June 30, 1948.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 48-5617; Filed, June 23, 1948; 8:45 a. m.]

[File No. 70-1866]

COLUMBIA GAS SYSTEM, INC., AND OHIO FUEL GAS CO.

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 18th day of June 1948.

Notice is hereby given that a joint application has been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935, by The Columbia Gas System, Inc., formerly Columbia Gas & Electric Corporation, ("Columbia") a registered holding company, and its subsidiary, The Ohio Fuel Gas Company ("Ohio Fuel") Applicants have designated sections 6 (b), 9, and 10 of the act as applicable to the proposed transaction.

Notice is further given that any interested person may, not later than June 25, 1948, at 5:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said application proposed to be controverted, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after June 25, 1948, said application, as filed or as amended, may be granted as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said application which is on file in the office of this Commission for a statement of the transaction therein proposed, which is summarized as follows:

Ohio Fuel proposes to issue and sell to Columbia $18,000,000 principal amount of 3¼% installment promissory notes. Such notes are to be paid in equal annual installments on August 15th of each of the years 1950 to 1974, inclusive. The application states that the proceeds to be obtained through the issue and sale of said notes will be utilized by Ohio Fuel to finance its 1948 construction and gas storage programs estimated to cost approximately $19,000,000. Since the construction program of Ohio Fuel is subject to the availability of materials and to other uncertainties, it is proposed that

Ohio Fuel issue and sell the 3¼% notes at such times and in such amounts as funds are required, none of such notes, however, to be issued and sold subsequent to December 31, 1948.

The Public Utilities Commission of Ohio, by order dated May 10, 1948, approved the issue and sale by Ohio Fuel of its 3¼% notes to Columbia.

It is requested that the Commission's order granting the joint application be issued as soon as possible and that it shall be effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 48-5620; Filed, June 23, 1948; 8:46 a. m.]

[File No. 70-1867]

LEHIGH VALLEY TRANSIT CO. AND ALLENTOWN BRIDGE CO.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 17th day of June A. D. 1948.

Notice is hereby given that Lehigh Valley Transit Company ("Transit") a non-utility subsidiary of National Power & Light Company, which is a registered holding company subsidiary of Electric Bond and Share Company also a registered company, and Transit's non-utility subsidiary Allentown Bridge Company ("Bridge Company") have filed a joint application-declaration pursuant to the Public Utility Holding Company Act of 1935. Applicants-declarants have designated sections 6 (b) and 12 (b) of the act and Rule U-45 of the rules and regulations promulgated thereunder as applicable to the proposed transactions which are summarized as follows:

Bridge Company proposes to borrow from the Home Life Insurance Company $150,000 on July 1, 1948. The proposed loans will be evidenced by promissory notes in the aggregate principal amount of $150,000, $5,000 principal amount thereof to mature at the end of each six months following July 1, 1948, and the balance of $55,000 principal amount to mature July 1, 1958. The notes are to be secured by a first mortgage on all of the property of Bridge Company and will be guaranteed as to payment of principal and interest by Transit.

The proceeds of the proposed loan together with other corporate funds will be used by Bridge Company to pay at maturity on July 1, 1948 $163,500 principal amount of its First Mortgage 5% Gold Bonds.

The loan agreement to be entered into between Bridge Company and Home Life Insurance Company and Transit provides for the subordination by Transit to the insurance company of claims to principal and interest on the demand note of Bridge Company in the amount of $54,500 owned by Transit.

The application-declaration states that the proposed transaction is subject to the jurisdiction of the Pennsylvania Public Utility Commission.

The application-declaration requests that the order herein be entered prior to June 23, 1948 in order that Bridge Company may pay off the principal amount of its bonds at maturity on July 1, 1948.

Notice is further given that any interested person may, not later than June 25, 1948, at 11:30 a. m., e. d. s. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest, and the issues of fact or law raised by said application-declaration which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed as follows: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after June 25, 1948, at 11:30 a. m., e. d. s. t., said application-declaration, as filed or as further amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under said act, or the Commission may exempt such transactions as provided in Rule U-20 (a) and Rule U-100 thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 48-5619; Filed, June 23, 1948; 8:46 a. m.]

[File No. 70-1869]

UNITED LIGHT AND RAILWAYS CO. AND CONTINENTAL GAS & ELECTRIC CORP.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 18th day of June A. D. 1948.

Notice is hereby given that an application-declaration has been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("Act") by United Light and Railways Company ("Railways"), a registered holding company, and its registered holding company subsidiary, Continental Gas & Electric Corporation ("Continental"). The application-declaration designates sections 6, 7, 9, 10 and 12 of the act and Rules U-43 and U-45 promulgated under the act as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than June 28, 1948, at 5:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held with respect to said application-declaration, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said application-declaration proposed to be controverted or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after June 28, 1948, said application-declaration, as filed or as amended, may be permitted to become effective, as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 and U-100 thereof.

All interested parties are referred to said application-declaration on file in the office of this Commission for a statement of the transactions therein proposed, which may be summarized as follows:

By order heretofore entered on February 3, 1948, the Commission approved an application-declaration proposing a general program for obtaining additional capital for Iowa Power & Light Company ("Iowa Power") a subsidiary of Continental. Said application-declaration, among other things, provided for the issuance and sale by Iowa Power on or before July 1, 1948, of 150,000 shares of common stock to Continental for a cash consideration of $10 per share. As part of the program presented in said application-declaration, Railways and Continental entered into a contract with Iowa Power providing for the issue and sale of said 150,000 shares of Iowa Power common stock on or before July 1, 1948, subject to the Commission granting Railways authority to purchase sufficient common stock of Continental so as to put Continental in funds to purchase the shares of common stock of Iowa Power. It is stated that all of the transactions proposed in said application-declaration have been consummated except the issuance and sale by Iowa Power of the 150,000 shares of its common stock to Continental, and the requisite financing of Continental by Railways to enable Continental to make the additional investment in Iowa Power. These transactions are the subject of the instant application-declaration

Railways, the owner of 99.86% of the outstanding Continental common stock, proposes to subscribe for the purchase of 37,500 additional shares of Continental common stock at $40 per share, the present stated value of the shares of such stock now outstanding, for an aggregate consideration of $1,500,000. In this connection, it is stated that the issuance and sale by Continental to Railways of Continental common stock may present a question as to whether the minority stockholders of Continental should not also be afforded an opportunity to purchase Continental common stock on the same basis as Railways. It is further stated that under the terms of a plan filed pursuant to section 11 (e) and approved by order of the Commission entered on December 30, 1947 (Holding Company Act Release No. 7951) Railways has undertaken to invest $9,000,000 in additional common stock of Continental, and that it was contemplated in the plan that Railways would concurrently make both investments in Continental, but the pendency of review proceedings with respect to the Commission's Order of December 30, 1947 renders it impracticable for Railways to make the $9,000,000 additional investment in Continental prior to July 1, 1948. In view of these facts Railways states that it is desirable to defer any offering of additional shares of Continental common

stock to Continental's minority stockholders until such time as it is proposed to issue the additional shares of Continental common stock required by the plan. Pending such further financing by Continental, Railways requests authorization to subscribe for the 37,500 additional shares of common stock with the full subscription price of $1,500,000 payable by Railways to Continental immediately upon the entry of the Commission's order approving the subject filing, but proposes that the issuance by Continental to Railways of said stock shall be deferred pending the Commission's further order. During this interim it is stated that Railways shall exercise no rights or privileges and shall receive no dividends in respect of such shares. It is further proposed that if for any reason the issuance to Railways of the 37,500 shares subscribed for shall not be authorized by further order of the Commission on or before December 31, 1948, the subscription shall become void and without further effect, and the $1,500,000 theretofore paid to Continental by Railways shall be regarded for all purposes as a capital contribution by Railways.

The application-declaration states that no regulatory authority other than the Securities and Exchange Commission has jurisdiction over the proposed transactions.

The applicants-declarants request that an order granting and permitting the application-declaration to become effective be issued on or before June 28, 1948, and become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 48-5618; Filed, June 23, 1948; 8:45 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 11377]

ANDREAS GERLING

In re: Bank account and mortgage participation certificate owned by Andreas Gerling, also known as Androes Gerling.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Andreas Gerling, also known as Andrpes Gerling, whose last known address is Cologne, Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows:

a. That certain debt or other obligation owing to Andreas Gerling, also known as Androes Gerling, by Union Dime Savings Bank, Sixth Avenue and 40th Street, New York, New York, arising out of savings account, Account Number 1042485, entitled Androes Gerling, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same, and

b. One (1) mortgage participation certificate evidencing a participating interest in a bond and mortgage executed by Prominent Business Locations Inc., said mortgage participation certificate numbered 3865, issue number 111, in the face amount of $1,000, registered in the name of Andreas Gerling, and presently in the custody of Geis, Forman & Schulze, attorneys-at-law, 32 Court Street, Brooklyn, New York, and any and all rights thereunder and thereto,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 2, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-5637; Filed, June 23, 1948; 8:48 a. m.]

[Vesting Order 11406]

LENA RAUSER

In re: Estate of Lena Rauser, deceased. File No. D-28-10062; E. T. sec. 14298.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Emma Bade, Ella Sander, Metta Petersen, Erna Drewel, Otto Bade, Wilhelm Bade, Mrs. Lene Schmidt, and Magdalene Weselman, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof, and each of them, in and to the estate of Lena Rauser, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany),

3. That such property is in the process of administration by Anna Giering, as Executrix, acting under the judicial supervision of the Passaic County Orphans' Court, Paterson, New Jersey;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 10, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-5638; Filed, June 23, 1948; 8:48 a. m.]

[Vesting Order 11433]

ERNEST POHLER

In re: Bank account owned by Ernest Pohler. F-28-14038-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Ernest Pohler, whose last known address is Richard Wagner Strasse 2, Hagen, Westphalia, Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows: That certain debt or other obligation owing to Ernest Pohler, by the Fidelity-Philadelphia Trust Company, Broad and Walnut Streets, Philadelphia 9, Pennsylvania, arising out of a checking account, entitled Ernest Pohler, maintained at the aforesaid trust company, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 10, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-5639; Filed, June 23, 1948; 8:48 a. m.]

[Vesting Order 11429]

TOM MATSUMOTO

In re: Debt owing to Tom Matsumoto. D-39-19168-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Tom Matsumoto, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan)

2. That the property described as follows: That certain debt or other obligation owing to Tom Matsumoto by Bank of America National Trust and Savings Association, 300 Montgomery Street, San Francisco, California, arising out of a checking account entitled Tom Matsumoto, maintained at the branch office of the aforesaid bank located at 951 F Street, Fresno, California, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 10, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-5593; Filed, June 22, 1948; 8:53 a. m.]

[Vesting Order 11431]

ELFRIEDE MOECKEL

In re: Bank account owned by Elfriede Moeckel. F-28-28999-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Elfriede Moeckel, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany),

2. That the property described as follows: That certain debt or other obligation owing to Elfriede Moeckel, by The National City Bank of New York, 55 Wall Street, New York, New York, arising out of a savings account, account number M19536, entitled Elfriede Moeckel, maintained at the Yorkville branch office of the aforesaid bank located at 123 East 86th Street, New York, New York, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 10, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-5600; Filed, June 22, 1948; 8:53 a. m.]

[Vesting Order 11447]

ROBERT BOSCH G. M. B. H. AND AMERICAN BOSCH CORP.

In re: Rights and interests of Robert Bosch G. m. b. H., Stuttgart, Germany, in trademarks of American Bosch Corporation.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Robert Bosch G. m. b. H., the last known address of which is Stuttgart, Germany, is a corporation, partnership, association or other business organization organized under the laws of Germany, and which has or, on or since the effective date of Executive Order 8389, as amended, has had its principal place of business in Germany, and is a national of a designated enemy country (Germany)

2. That the property described as follows: All right, title and interest of whatsoever kind or nature, including without limitation any reversionary interest, under the statutory or common law of the United States and of the several States thereof, of Robert Bosch G. m. b. H., its successors or assigns, in and to any and all good will of the business in the United States of American Bosch Corporation and in and to any and all registered trademarks and trade names appurtenant to such business, and in and to every license, agreement, privilege, power and right of whatsoever kind or nature arising under or with respect thereto,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany) and is property of, or is property payable or held with respect to trademarks or rights related thereto to which interests are held by, and such property itself constitutes interests held therein by, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been

made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 11, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-5601; Filed, June 22, 1948; 8:53 a. m.]

[Vesting Order 11434]

MENDEL ROSENBAUM AND ELSA OPPENHEIMER

In re: Bank accounts owned by Mendel Rosenbaum also known as Menny Rosenbaum and Elsa Oppenheimer. F-28-15095-E-1, F-28-15011-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Mendel Rosenbaum also known as Menny Rosenbaum and Elsa Oppenheimer, each of whose last known address is Liebig Strasse, 23, Frankfurt am Main, Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That the property described as follows:

a. That certain debt or other obligation owing to Mendel Rosenbaum also known as Menny Rosenbaum, by Wells Fargo Bank & Union Trust Co., 4 Montgomery Street, San Francisco, California, arising out of a savings account, account number 20439, entitled Mendel Rosenbaum, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same, and

b. That certain debt or other obligation owing to Elsa Oppenheimer, by Wells Fargo Bank & Union Trust Co., 4 Montgomery Street, San Francisco, California, arising out of a savings account, account number 27584, entitled Elsa Oppenheimer, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 10, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-5640; Filed, June 23, 1948; 8:48 a. m.]

[Vesting Order 11440]

STEEL UNION TRADING CO. AND STAHLUNION-EXPORT G. M. B. H.

In re: Debts owing to Steel Union Trading Co., London, England and to Stahlunion-Export G. m. b. H., Düsseldorf, Germany.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Vereinigte Stahlwerke A. G., the last known address of which is Düsseldorf, Germany is a corporation organized under the laws of Germany, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Düsseldorf, Germany and is a national of a designated enemy country (Germany)

2. That Stahlunion-Export G. m. b. H., the last known address of which is Düsseldorf, Germany is a corporation, partnership, association or other business organization organized under the laws of Germany, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Düsseldorf, Germany and is a national of a designated enemy country (Germany)

3. That Steel Union Trading Co. Ltd. is a corporation organized under the laws of Great Britain, and is or, since the effective date of Executive Order 8389, as amended, has been owned or controlled by the aforesaid Vereinigte Stahlwerke A. G. and is a national of a designated enemy country (Germany)

4. That the property described as follows: That certain debt or other obligation owing to Steel Union Trading Co. Ltd., by Steel Union Inc., San Francisco, California, in the amount of $20,000, as of November 1, 1939, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Steel Union Trading Co. Ltd., the aforesaid national of a designated enemy country (Germany)

5. That the property described as follows: That certain debt or other obligation owing to Stahlunion-Export G. m. b. H., by Steel Union Inc., San Francisco, California in the amount of $19,958.04, as of June 13, 1940, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Stahlunion-Export G. m. b. H., the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

6. That Steel Union Trading Co. Ltd. is controlled by or acting for or on behalf of a designated enemy country (Germany) or persons within such country and is a national of a designated enemy country (Germany), and

7. That to the extent that the persons named in subparagraphs 1, 2, and 3 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 10, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-5643; Filed, June 23, 1948; 8:48 a. m.]